

### 411<sup>th</sup> Contracting Support Brigade









#### **AGENDA**

- OPENING REMARKS
- PROCUREMENT PROCESS
- HOW TO REGISTER CCR & DUNS NUMBER
- ARMY SINGLE FACE TO INDUSTRY (ASFI)
- PRE-AWARD SURVEY
- BEST VALUE
- REVIEW SOLICITATION
- CONTRACT ADMINISTRATION
- POST PASS & DECAL
- WIDE AREA WORK FLOW (WAWF)
- LEGAL BRIEFING
- QUESTIONS AND ANSWERS



### 411<sup>th</sup> Contracting Support Brigade



#### **OPENING REMARKS**

COL FREDERICK A. PUTHOFF
Commander
11th Contracting Support Brigade, Korea





#### Agenda

- 411<sup>th</sup> CSB Mission
- Contracting Actions for Korean Vendors
- Importance of Korean Vendors



#### 411<sup>th</sup> Contracting



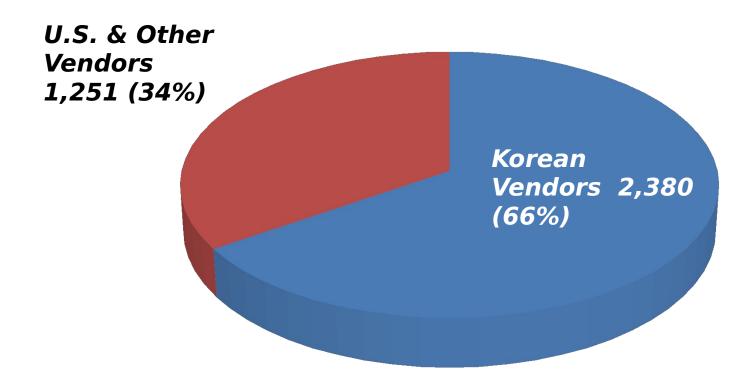
#### 411<sup>™</sup> CSB Mission

- Provide contracting support to all U.S. Forces in Korea
- Provide technical assistance and training for customers
- Provide contingency contracting support for U.S. operations in the ROK during a crisis
  - Contracting Locations: Yongsan, Daegu, Yongtaek, Osan, and Kunsan





#### Number of Contracting Actions for FY10







#### **Amount of Contracting for FY10**

U.S. & Other Vendors \$71,541,431 = KW 852 [

> *Korean Vendors* \$170,416,623 = KW 2,030 □







#### Importance of Korean Vendors

- Foster competition and assist local economy
- Ease/Quickness of delivery and maintenance of local goods/services
- SOFA requires local contracting except 4 conditions:
  - Security considerations
  - Technical qualifications of the contractor involved
  - Unavailability of materials or services required by U.S. standards
  - Lim

Command

Korean companies are critical to support U.S. military mission in ROK



#### 411<sup>th</sup> Contracting



#### Thank You ( □□ □□□ )

- Thank you for participating in Vendor's Day Event
- Learn and ask questions
- Help us build a good relationship
- Let's go together ( □□ □□□ ).



### 411<sup>th</sup> Contracting Support Brigade



#### PROCUREMENT PROCESS

Mr. Song, Ho Chun Acting Chief, Construction/Supply Division





# WELCOME TO THE CONTRACTING

ONE TEAM.....ONE MISSION!











### HOW CONTRACTING WORKS (PCO)





-Review Purchase Request

-Obtain Complete Package

Select Best Contracting Vehicle

- -BPA
- -Delivery Order/Task Order
- -SOLICITATOIN (RFQ/RFP):

SA/CHESS/ASFI



-Receive Quotations/Proposals

- Evaluate
- LPTA/Trade-Off
- -Select Successful Offer

Award and Assign to the CAO





### HOW CONTRACTING WORKS (ACO)





Contract Admin Office



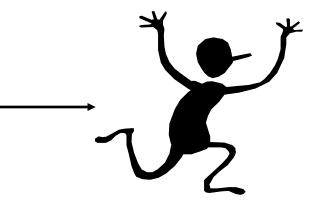
Post-award Conference







Payment



Close-Out





### PROCUREMENT AUTHORITY

**Statutes** 

Federal Acquisition Regulation (FAR)

DoD FAR Supplement (DFARS)

**Army FAR Supplement (AFARS)** 

**USFK Regulation 715-2** 





### INSTRUCTION TO THE OFFEROR

- Required Documents (Technical Proposal, Price Proposal & Past Performance, etc.)
- Basis of Award (Evaluation Criteria)



#### 411<sup>th</sup> Contracting



#### UNILATERAL AUTHORITY

- ➤ Issue Change Orders
- Delivery Orders
- Suspension of Work/Stop Work Order
- Exercise of Contract Options
- > Termination Actions
  - ✓ Termination for Convenience of the Government (T4C)
  - ✓ Termination for Default (T4D)
  - ✓ Termination for Cause





#### **ADVANCED PLANNING**

- ✓ USFK Form 75/76
- ✓ Petroleum Coupons





#### ACO vs. COR/RO

- Only the ACO is authorized to change the Contract
- ➤ RO/COR Cannot Change:
  - ✓ Price
  - ✓ Quantity
  - ✓ Quality
  - ✓ Delivery



#### 411<sup>th</sup> Contracting



#### Contractor's Performance Evaluation

- Inspector/COR/Quality Assurance Specialist
- Contractor's Performance Rating -
  - Services: USFK Form 173-R-E, 1 DEC 01 (Monthly)
  - Construction: DD Form 2626
- Letter of Concern/Cure Notice/ Show Cause
- Past Performance Data Base





### Questions?



U.S. Army Contracting Command



### 411<sup>th</sup> Contracting Support Brigade



## CENTRAL CONTRACTOR REGISTRATION (CCR)

Ms. Han, Chin Ok Customer Support Team







- CCR □□
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#### CCR □□

- Federal Acquisition Regulation (FAR) 4.1102
   (□□□□□□□ 4.1102)
- Defense Federal Acquisition Regulations Supplement (DFARS) 204.7302
   (□□□□□□□□□□□ 204.7302)







- Data Universal Numbering System (DUNS) Number
- North Atlantic Treaty Organization (NATO) Commercial and Government Entity (CAGE) Code (NCAGE) [[][][][]
- North American Industry Classification System (NAICS)
   Code □□□□□□□□□
- □□ □□□ (Point of Contact (POC))
  - CCR [ [ [ ] ( [ ] , [ ] )
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#### **DUNS NUMBER**

•	DUNS Number   DUN & Bradstreet (D&B)	

- DUNS Numbers DUN & Bradstreet (D&B) Web Site:

<a href="http://fedgov.dnb.com/webform/displayHomePage">http://fedgov.dnb.com/webform/displayHomePage</a>
<a href="http://fedgov.dnb.com/webform/displayHomePage">.do</a>





#### NCAGE CODE



•	
	http://www.d2b.go.kr/)







- DUNS Number | NCAGE | | | | | | | | | | | CCR home page <a href="http://www.ccr.gov">http://www.ccr.gov</a> | | | | | | | | | | | | | | (Start New Registration) | | | | | | | | | | | | | | |

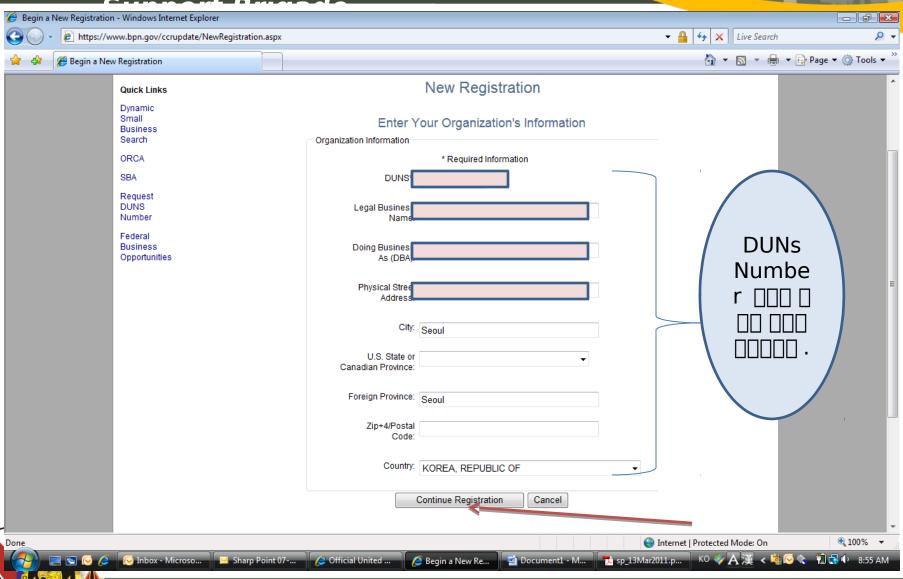






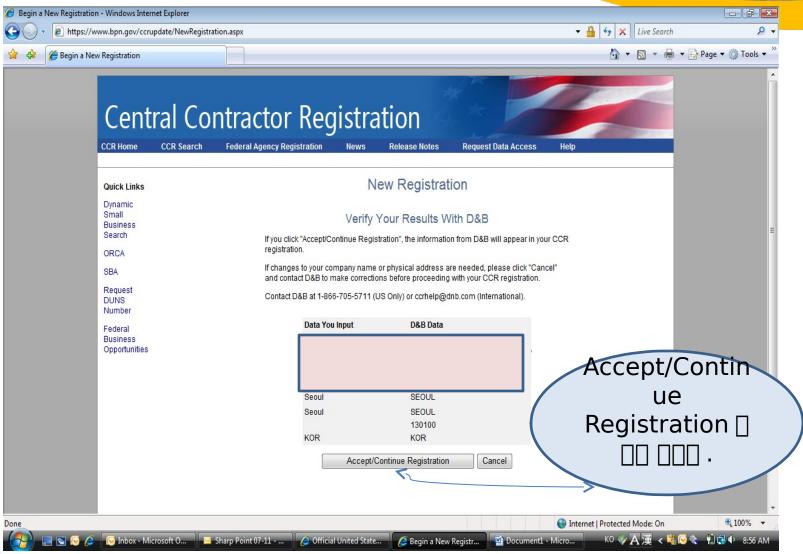












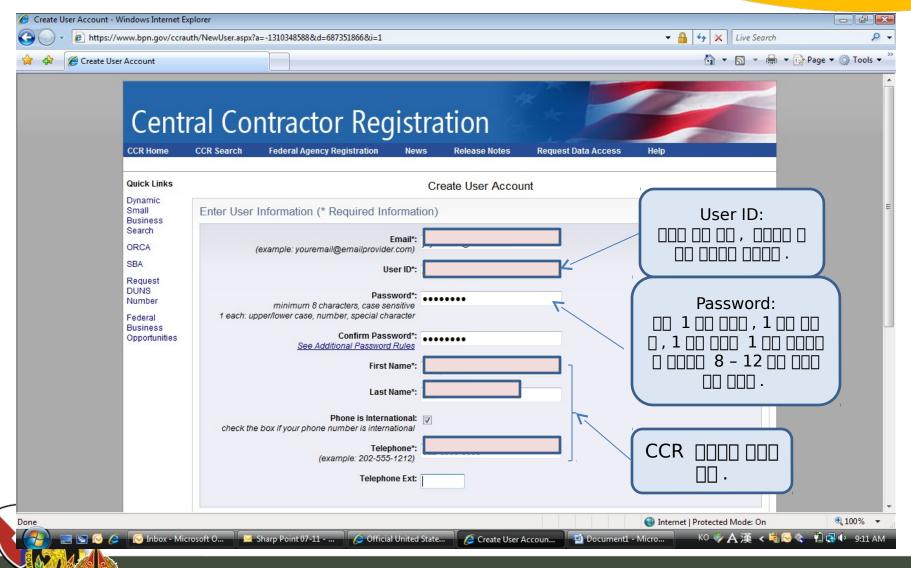






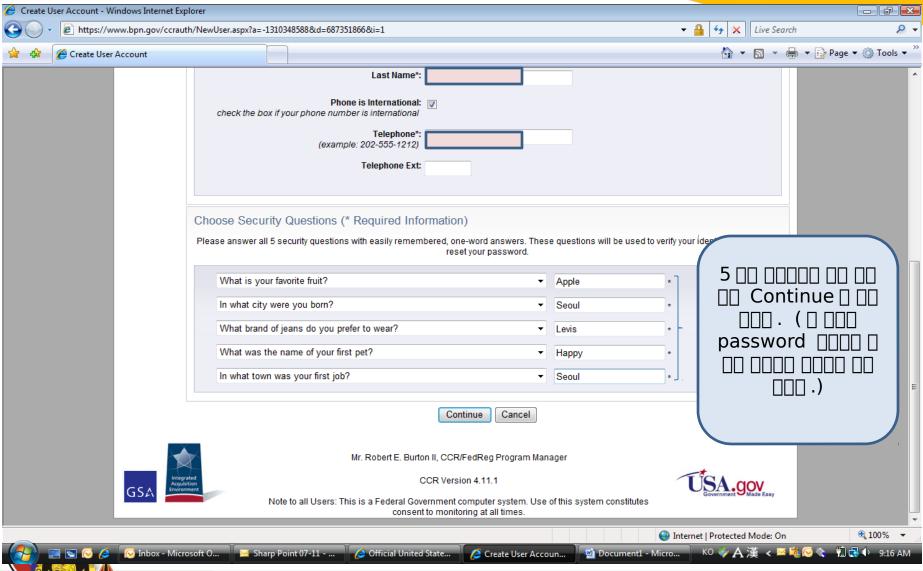






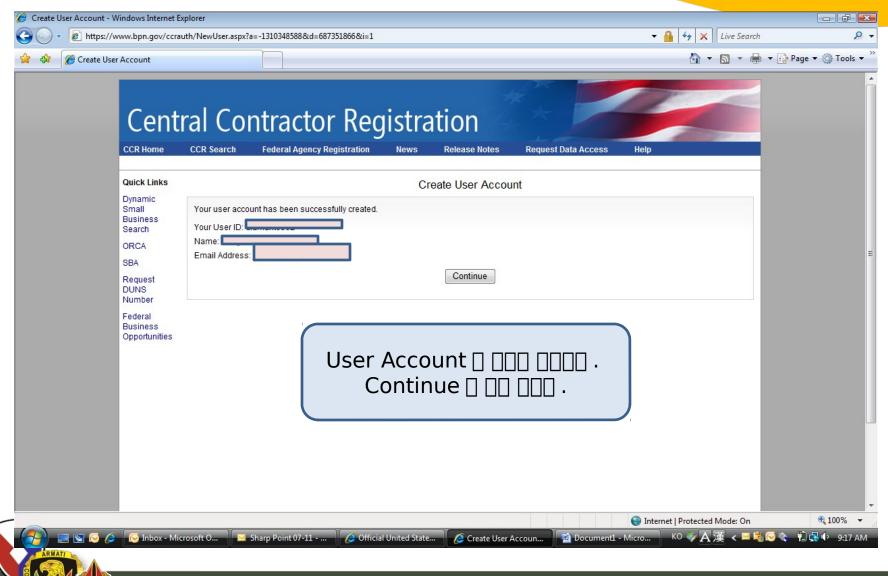
























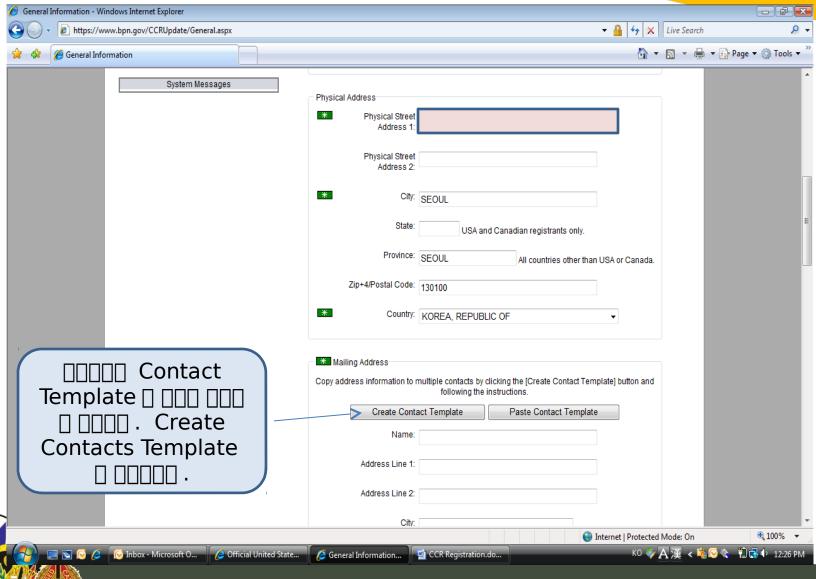












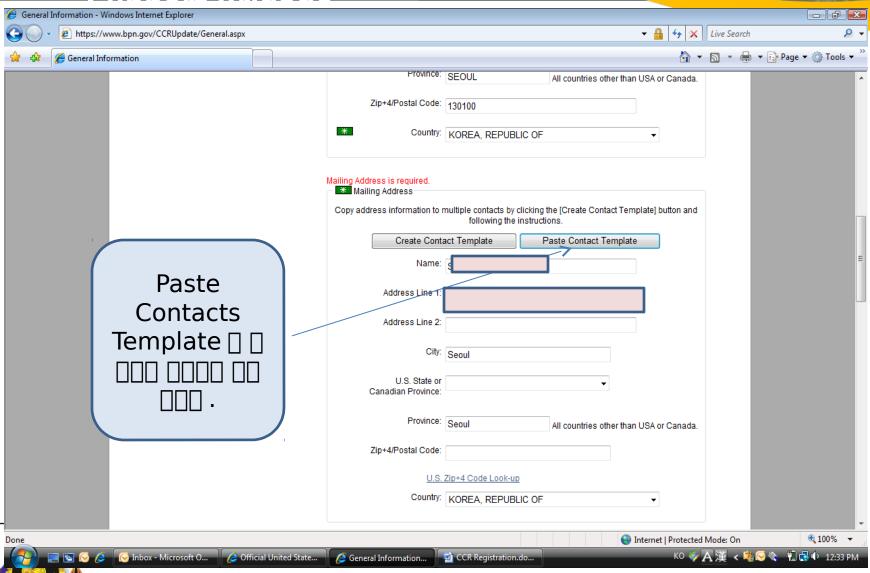




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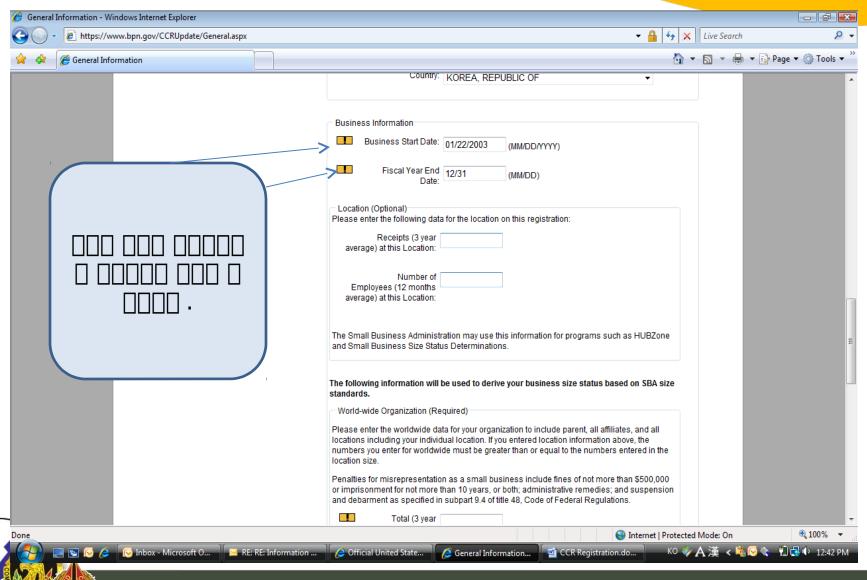






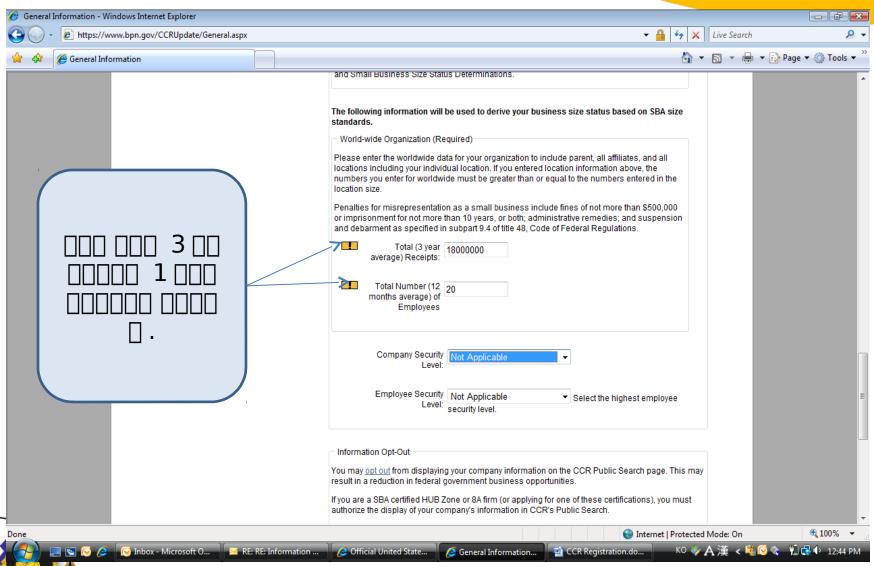






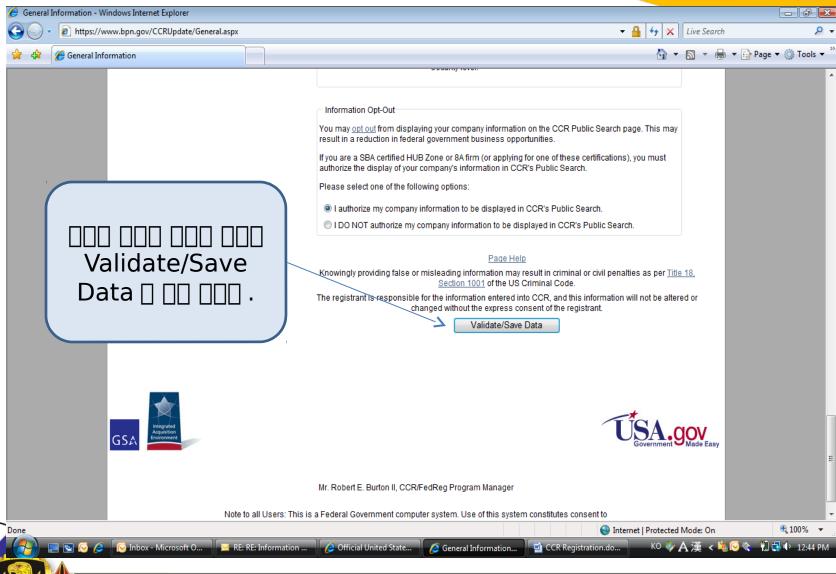






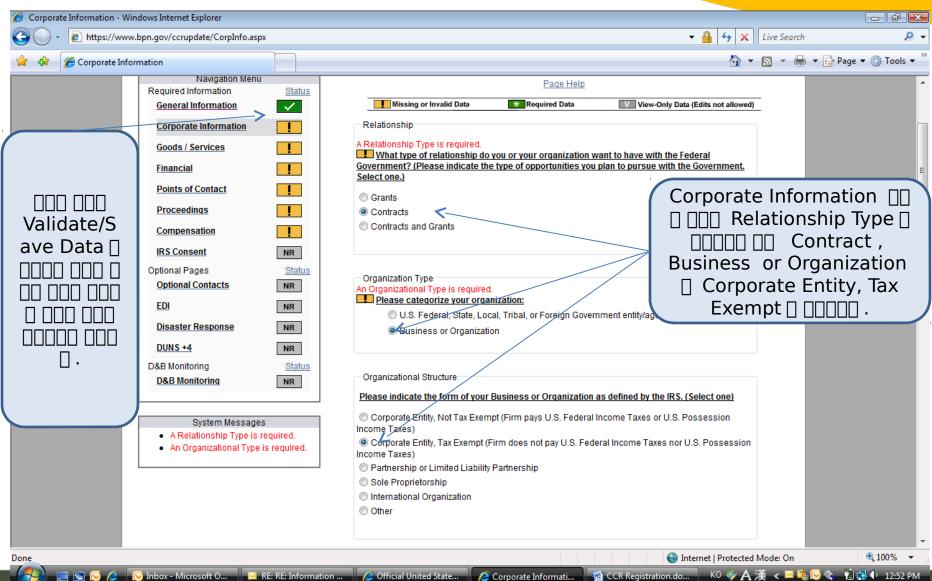






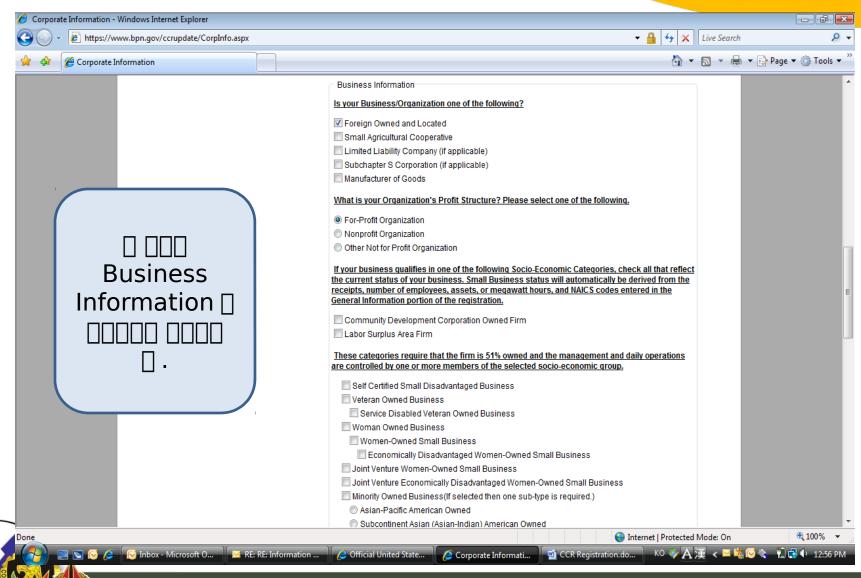






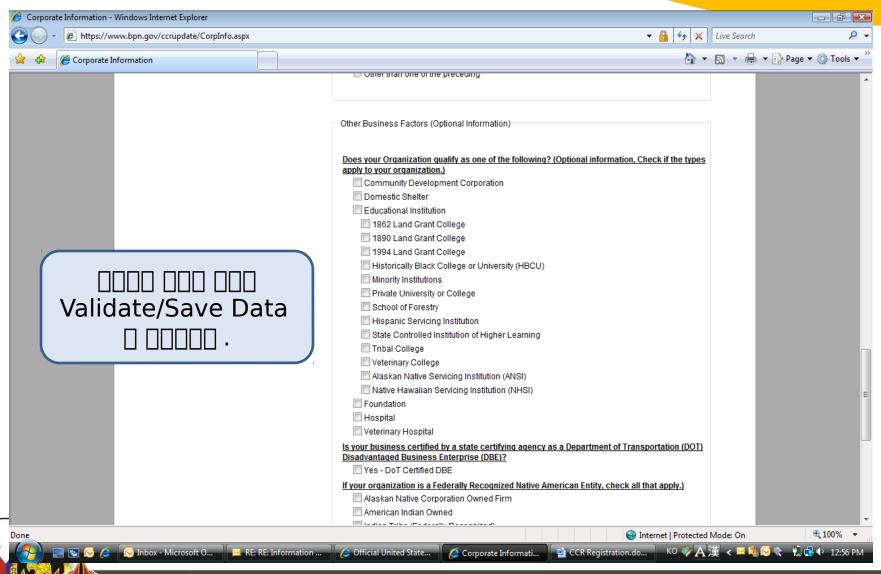






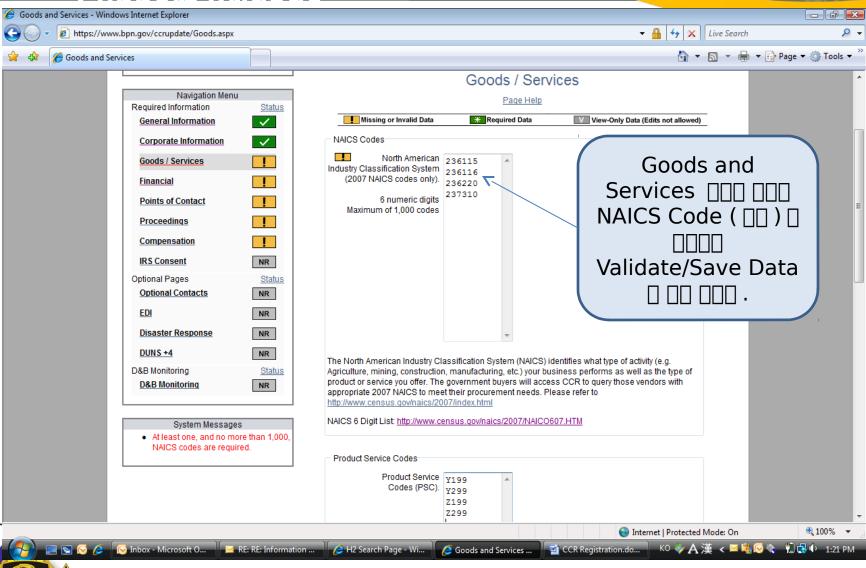






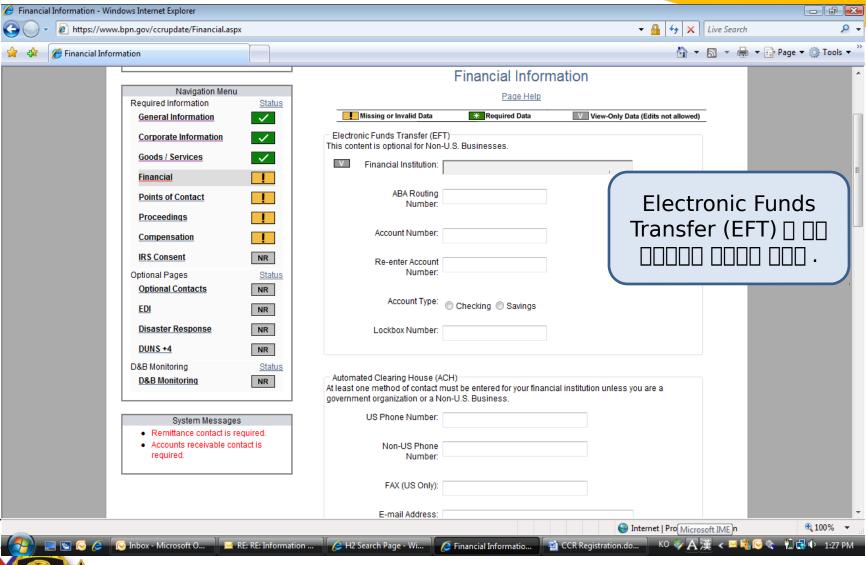






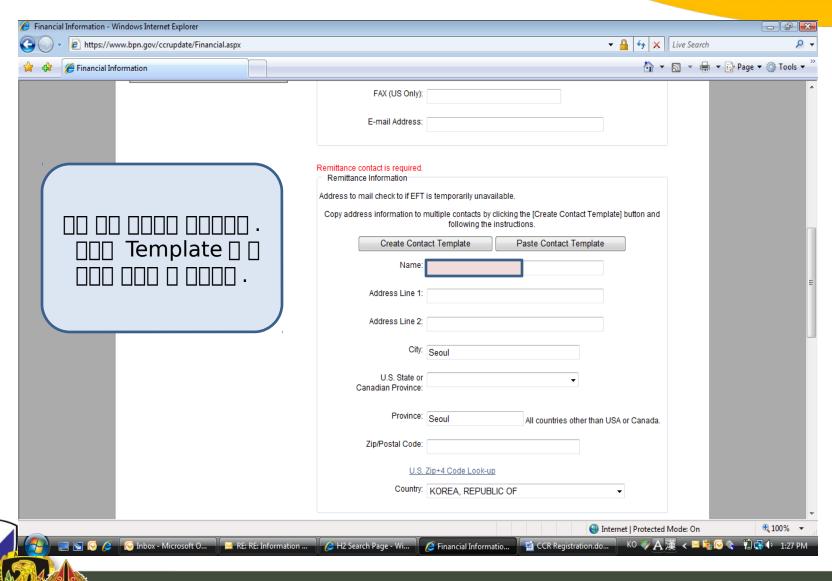






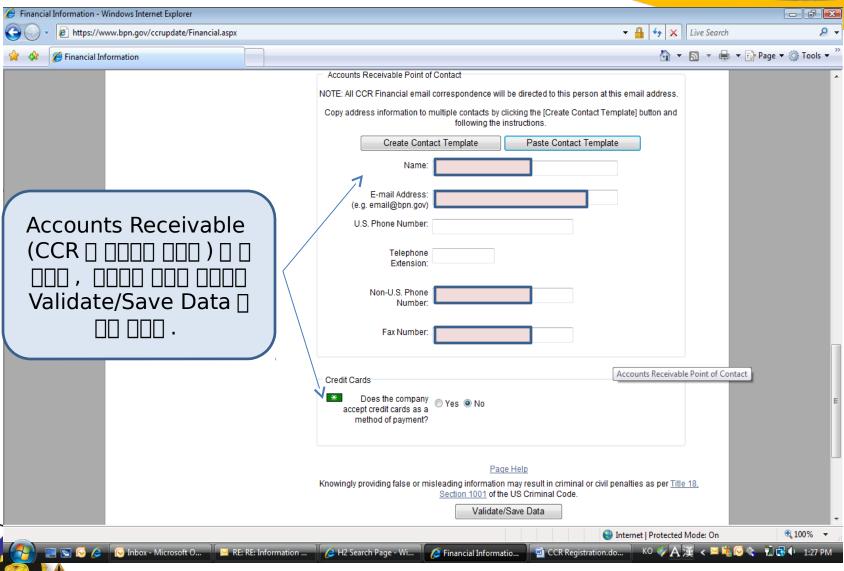






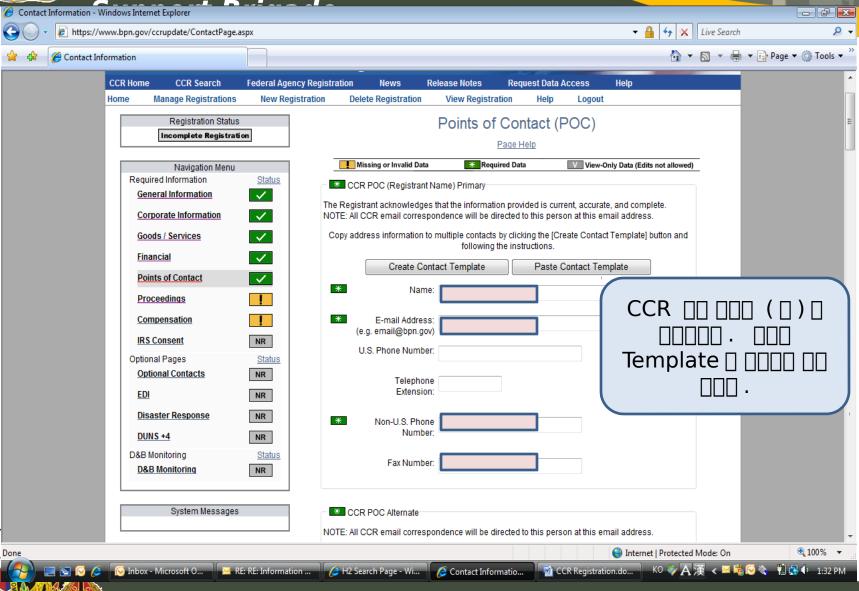














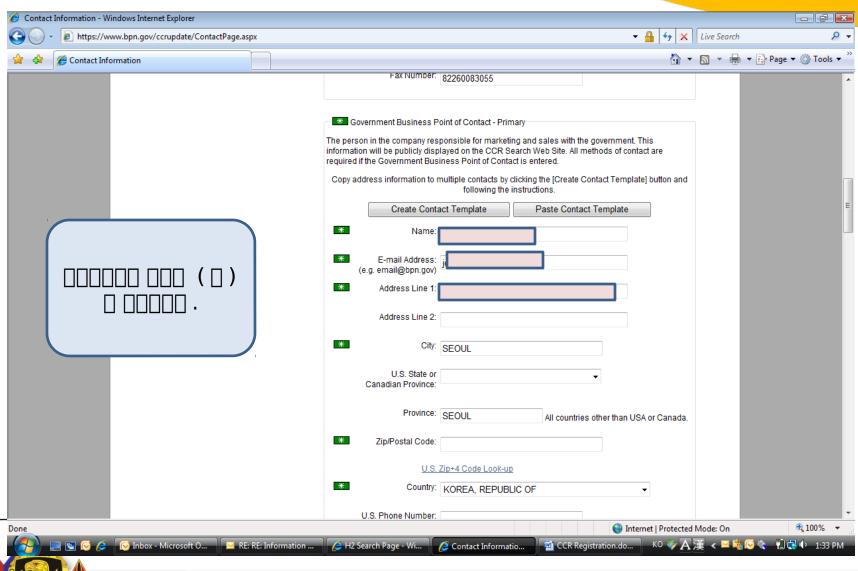
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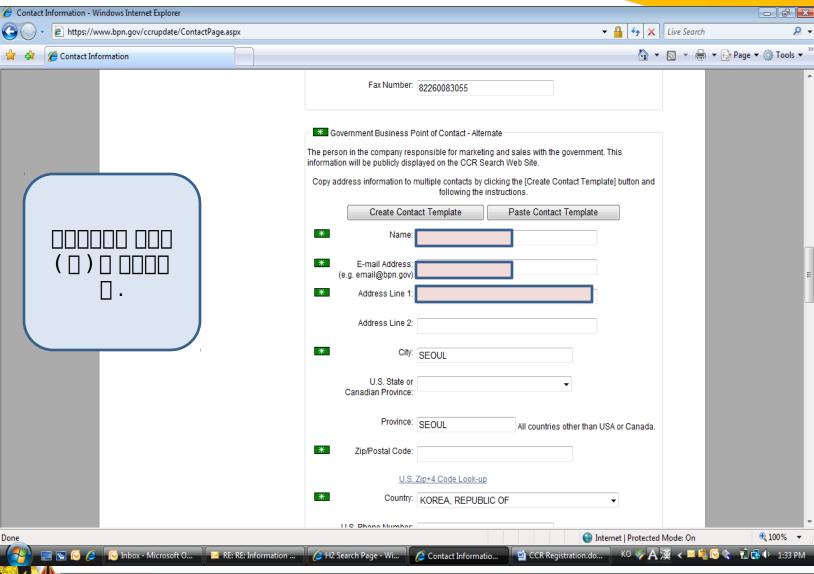






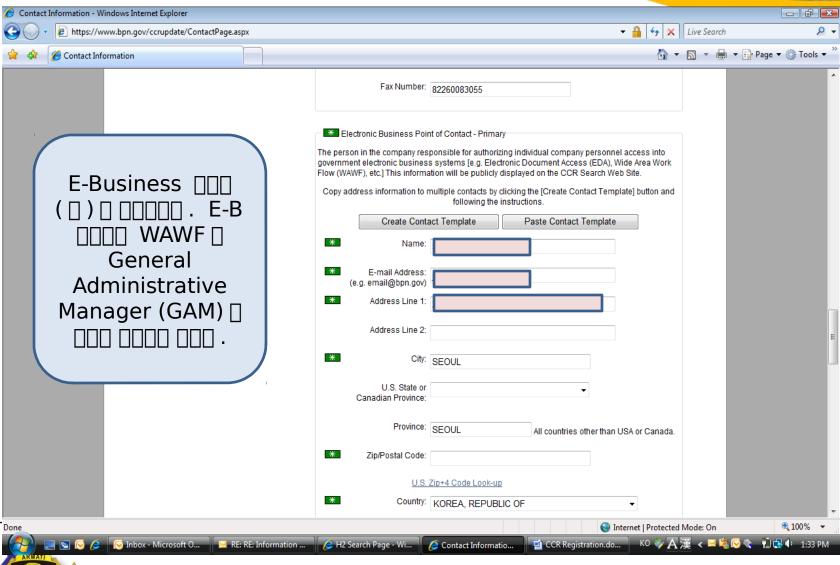












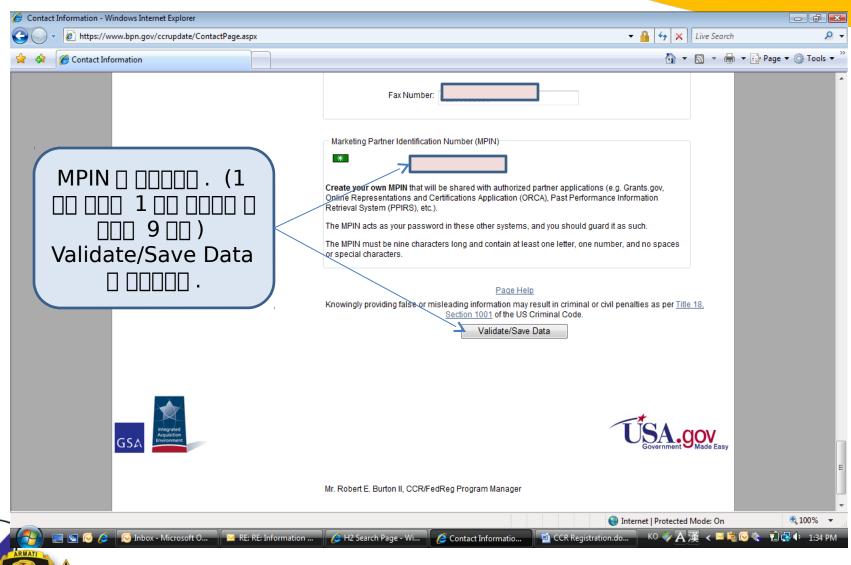




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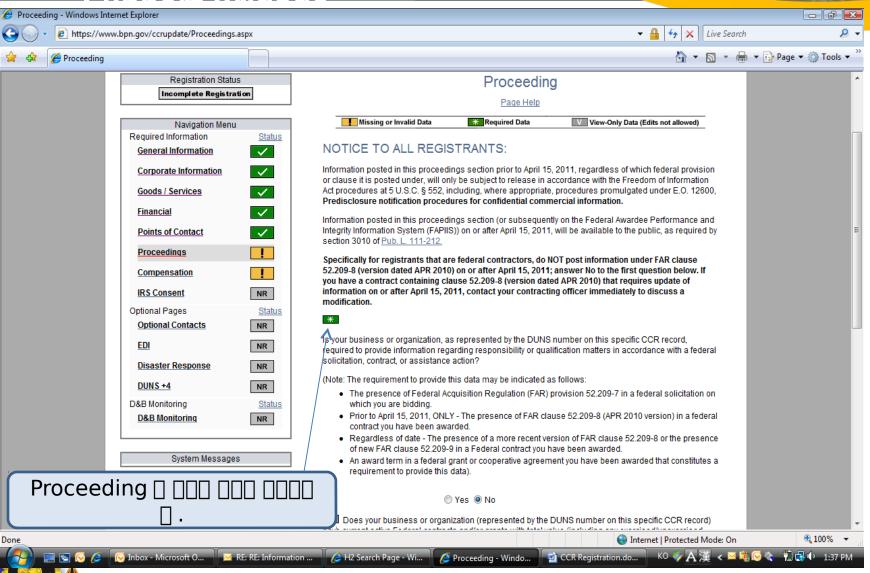






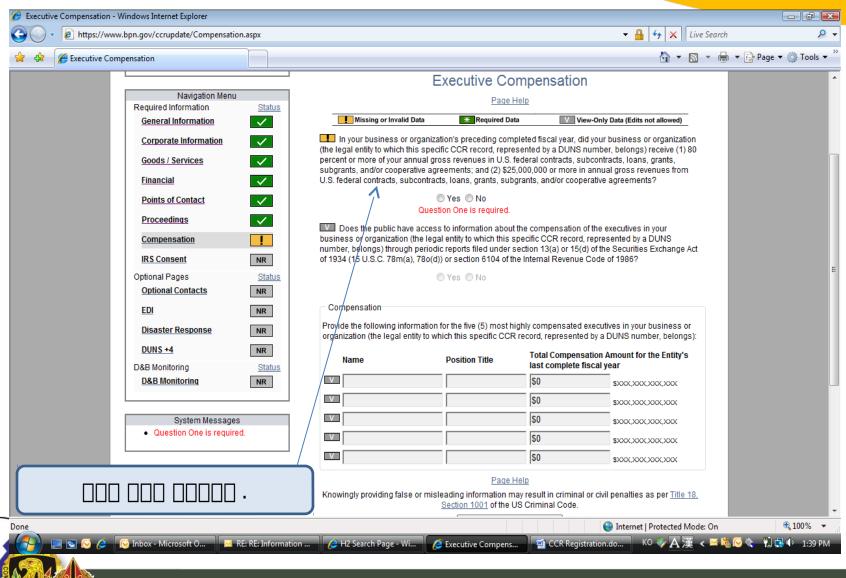






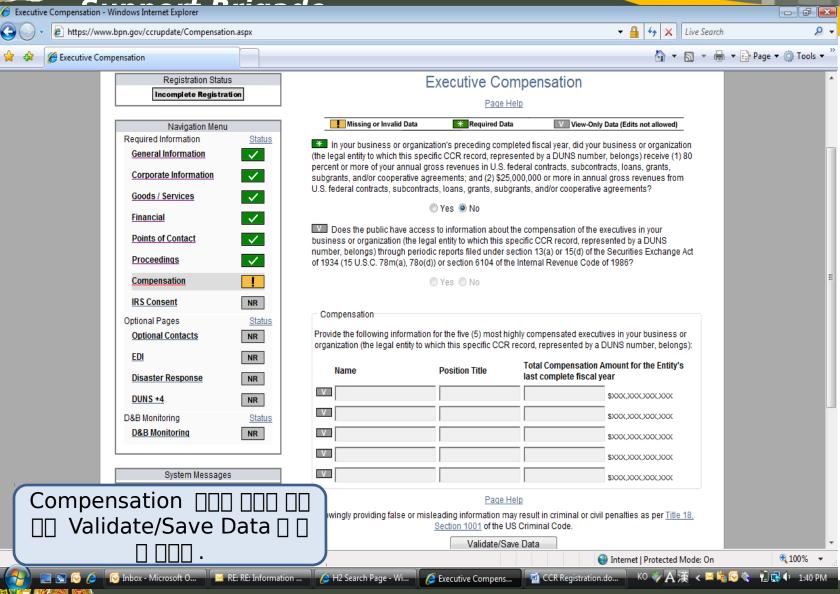






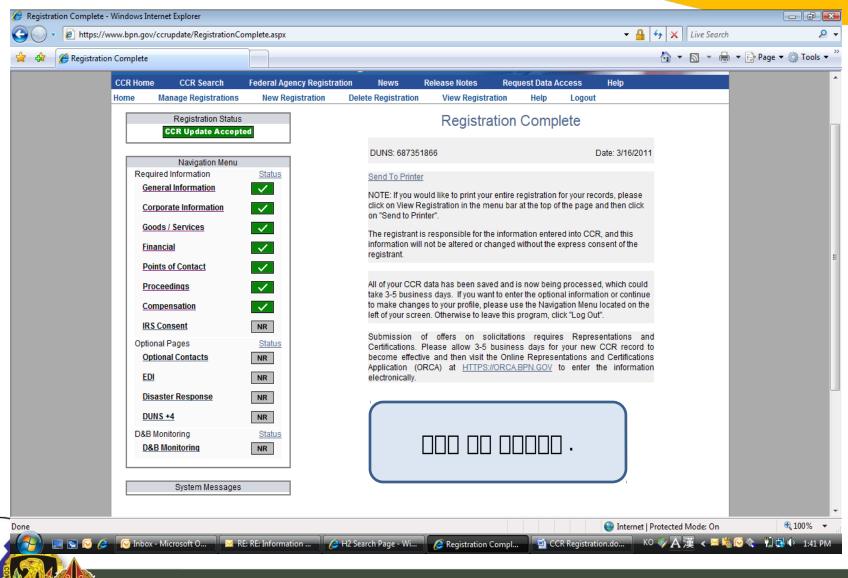
















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# Questions?





# 411<sup>th</sup> Contracting Support Brigade





Ms. Kwon, O Sun Compliance and Policy Branch





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#### 411<sup>th</sup> Contracting



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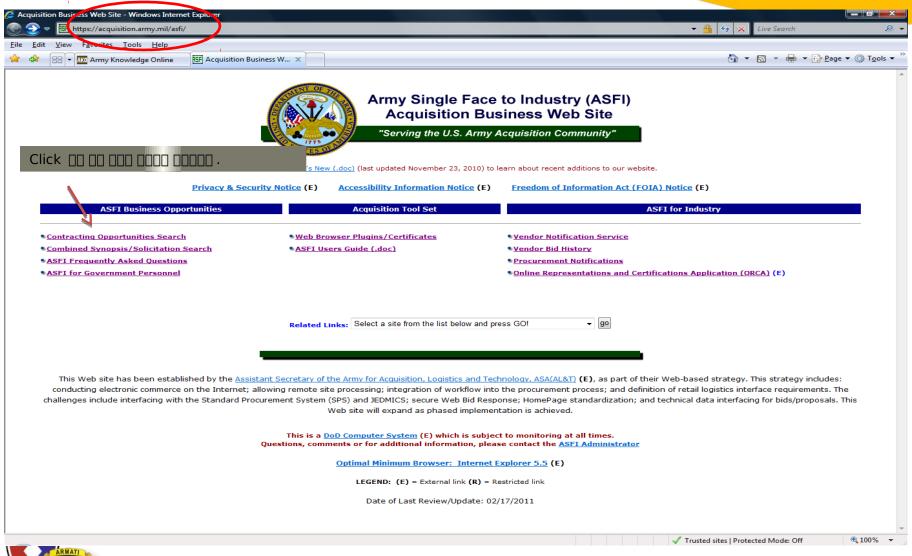
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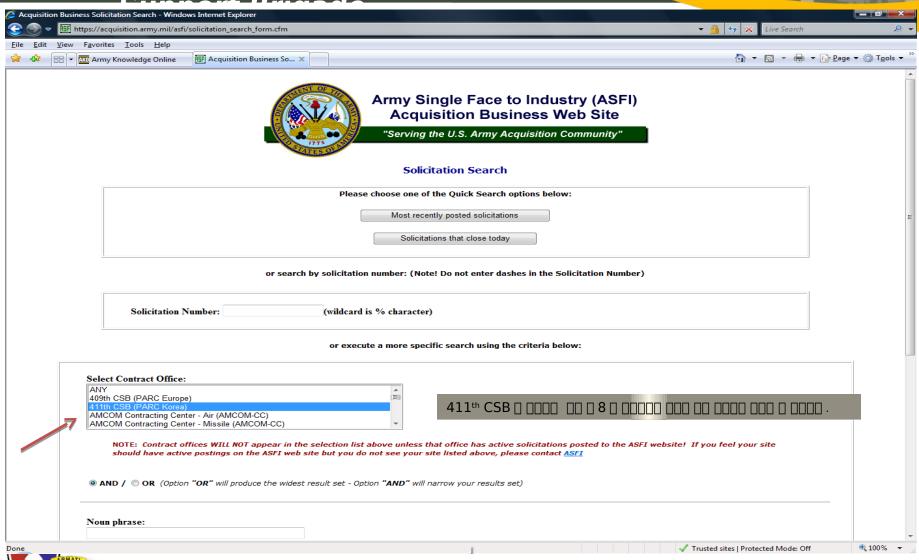






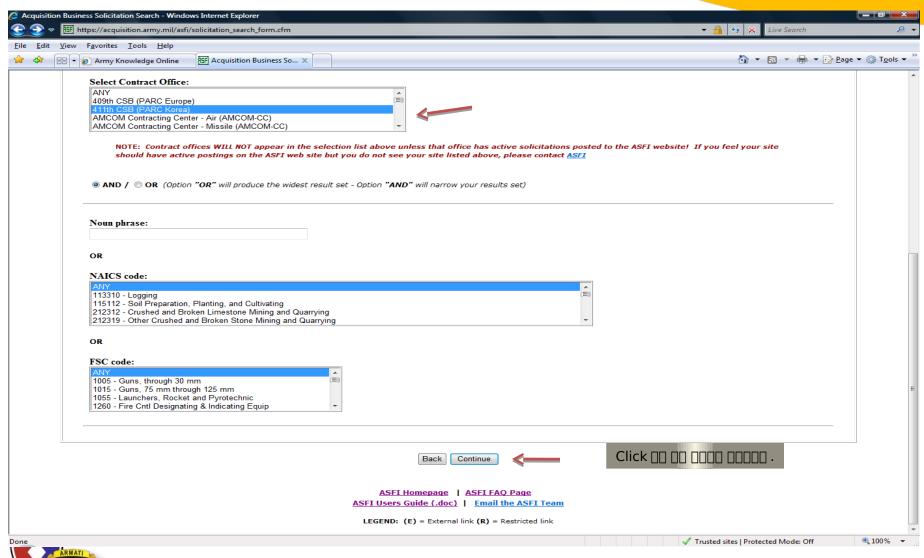
#### 411<sup>th</sup> Contracting





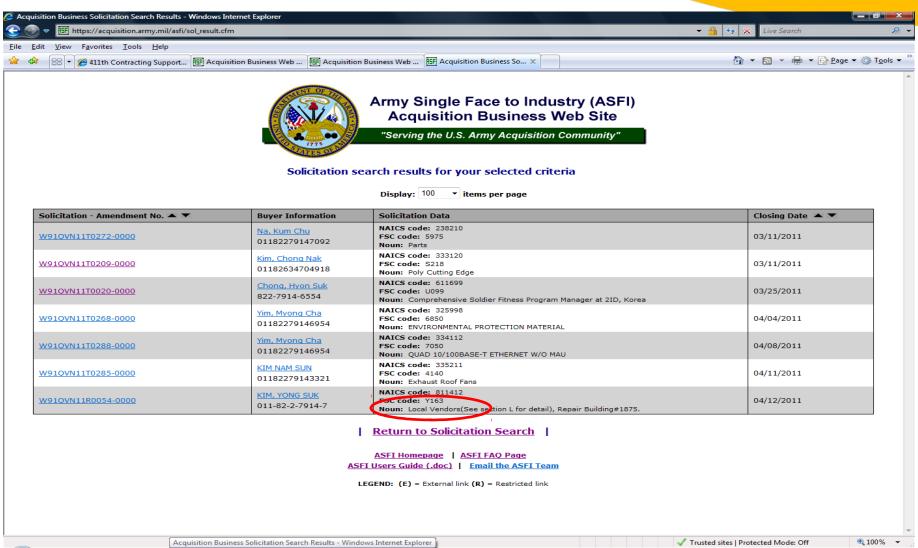












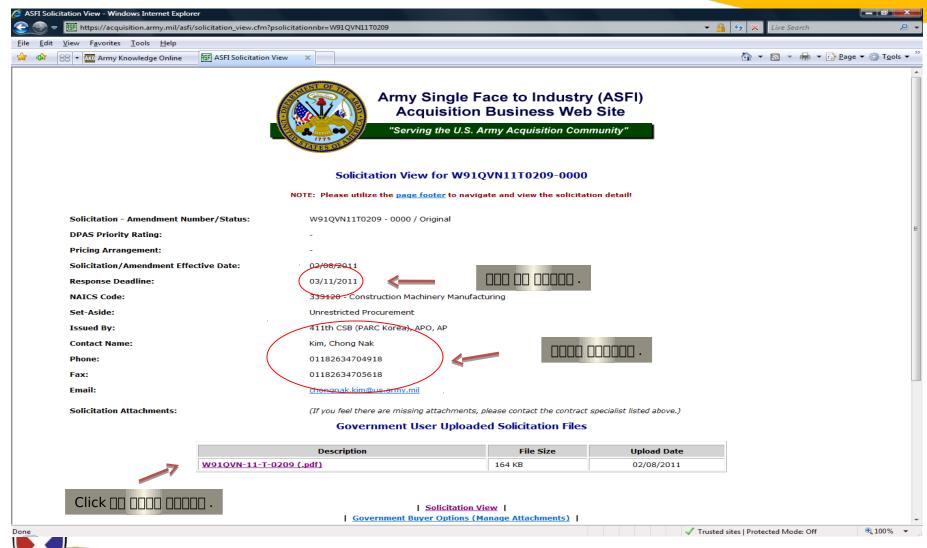












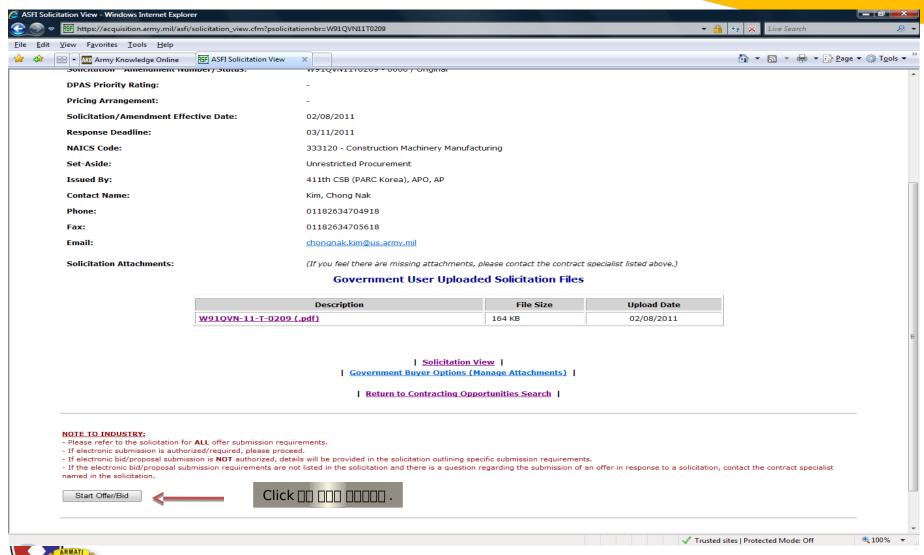




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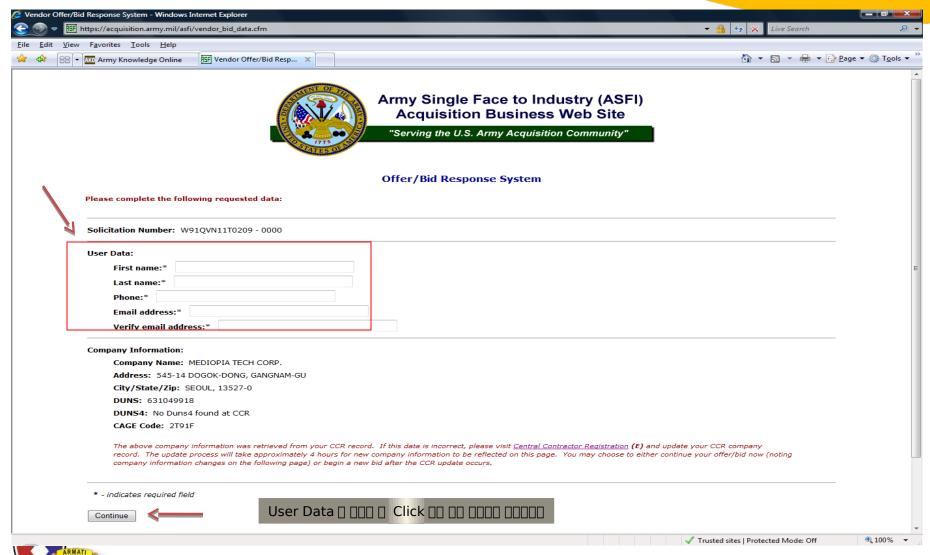






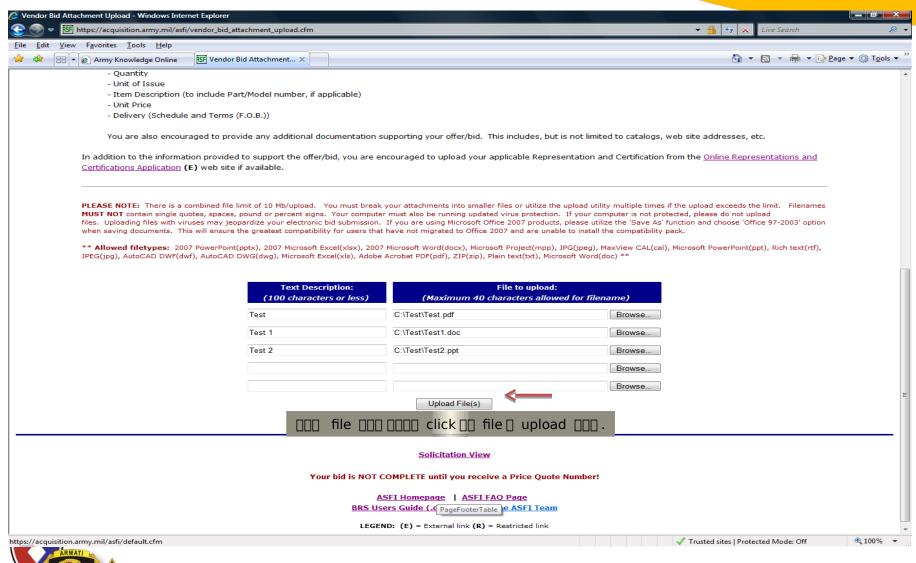






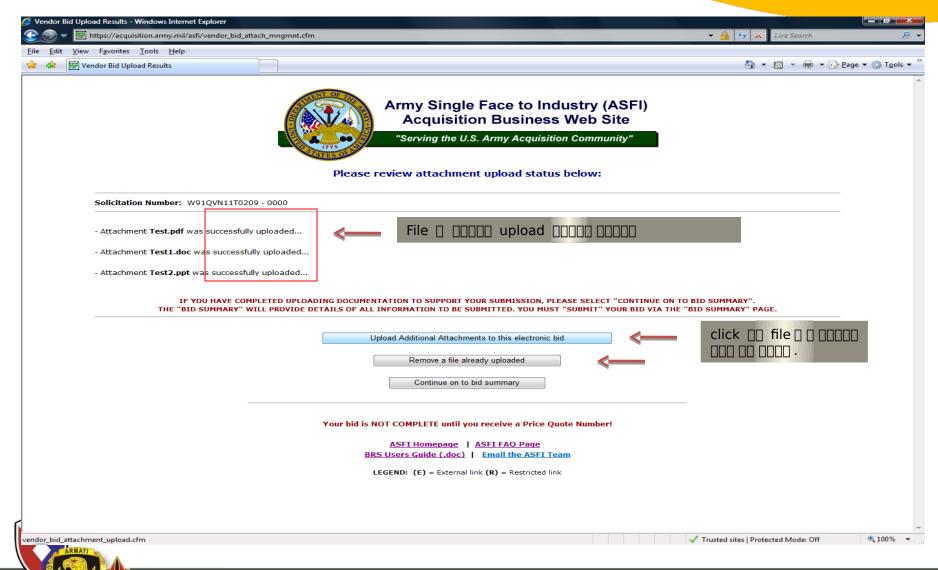






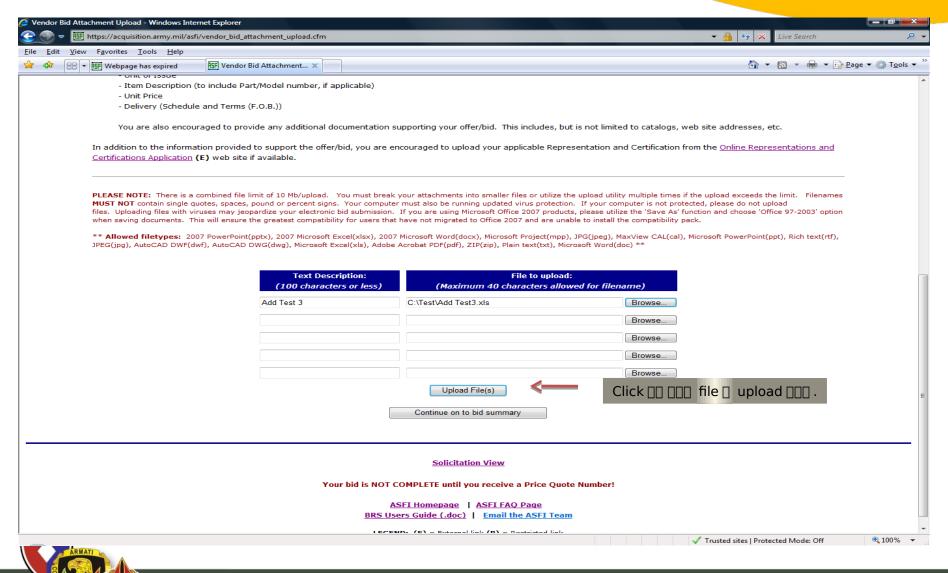






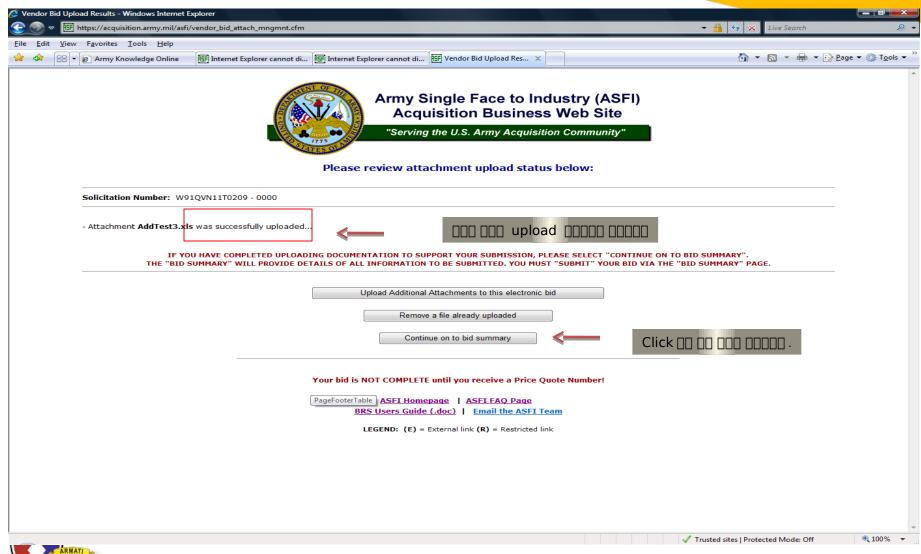






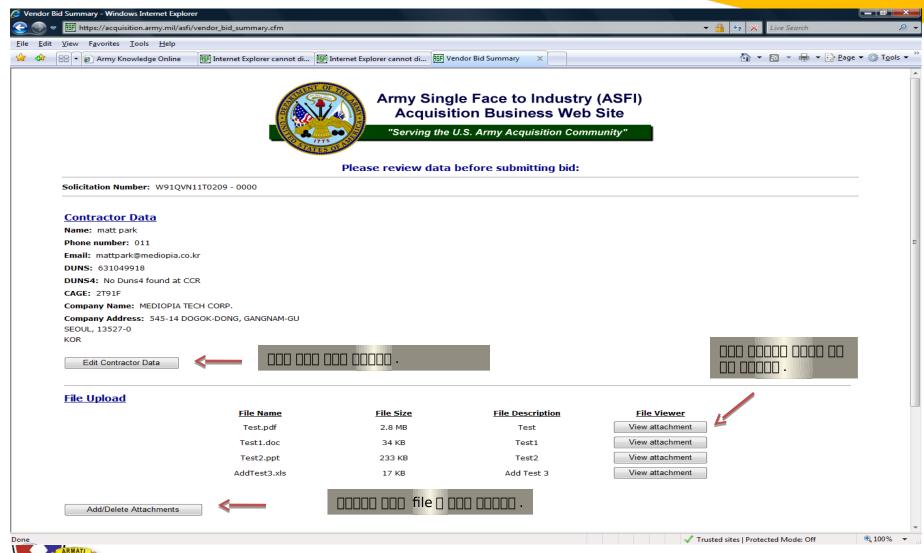






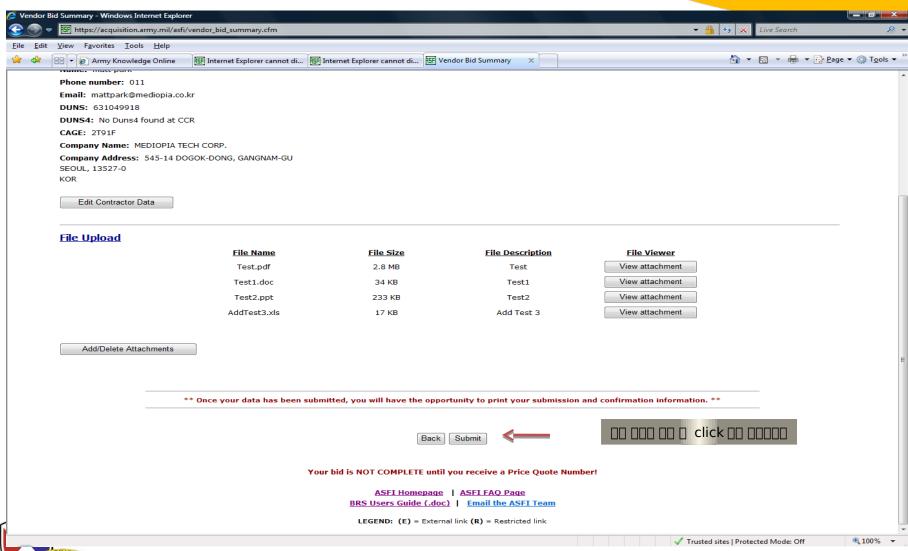






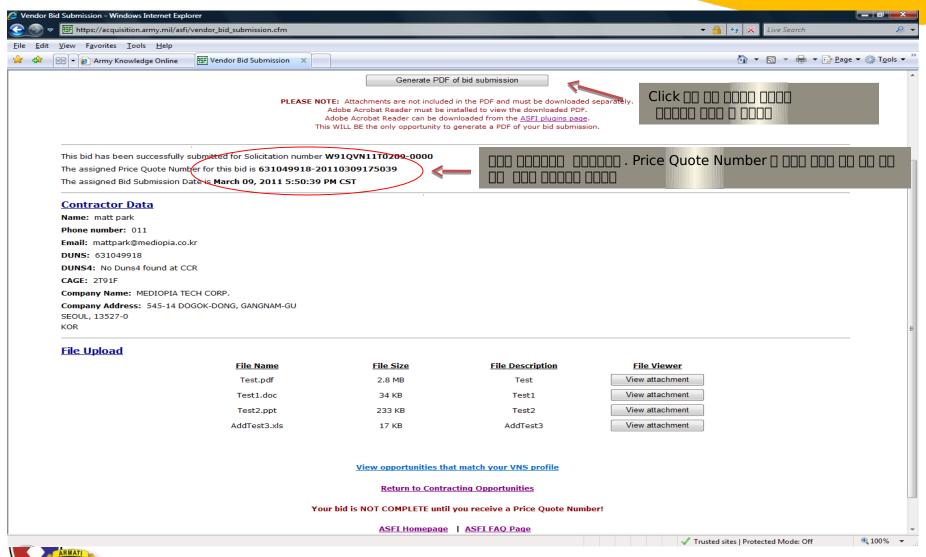






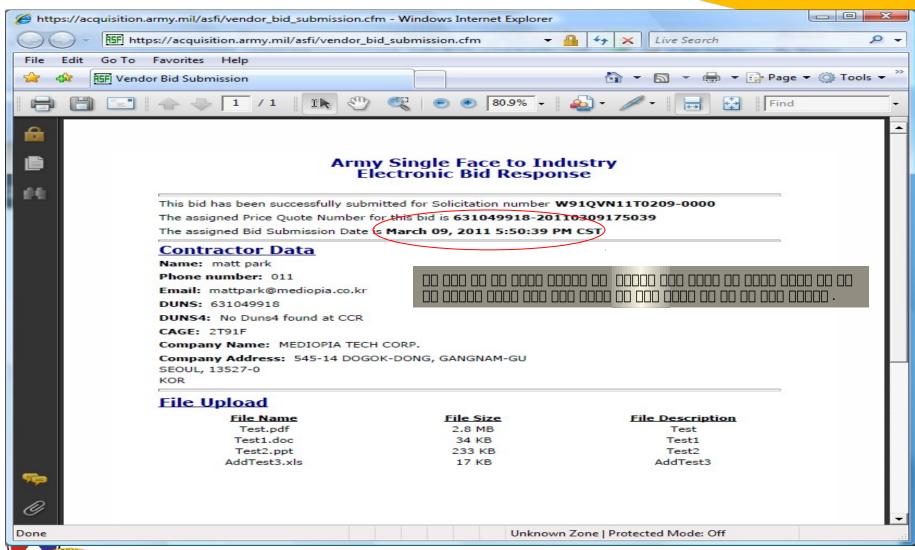






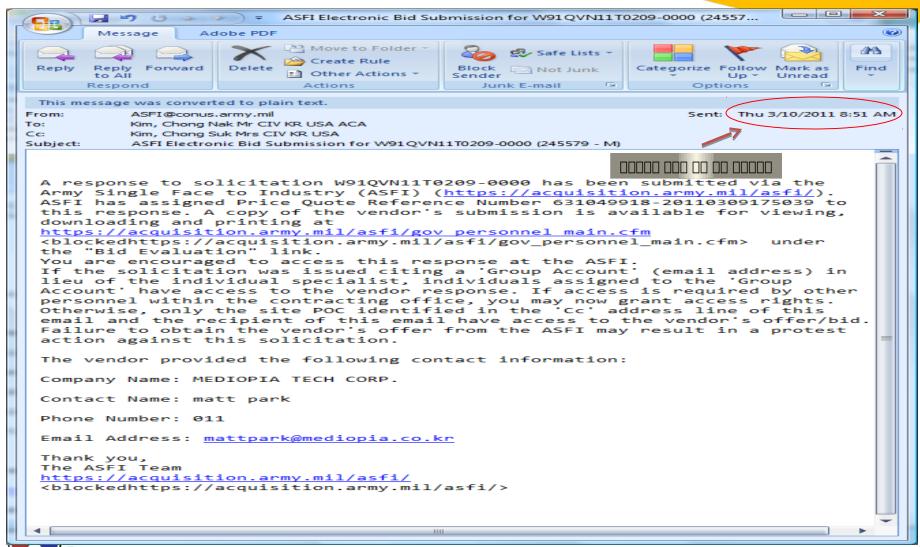














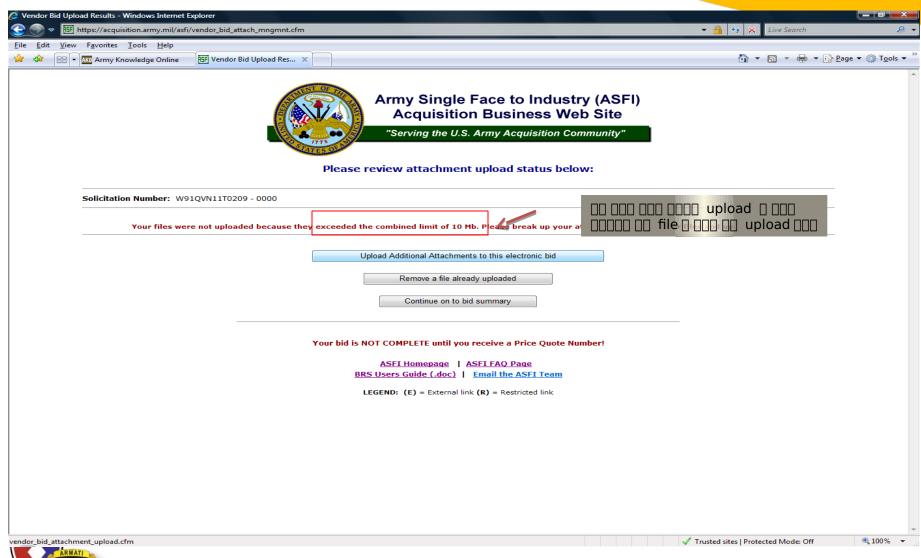


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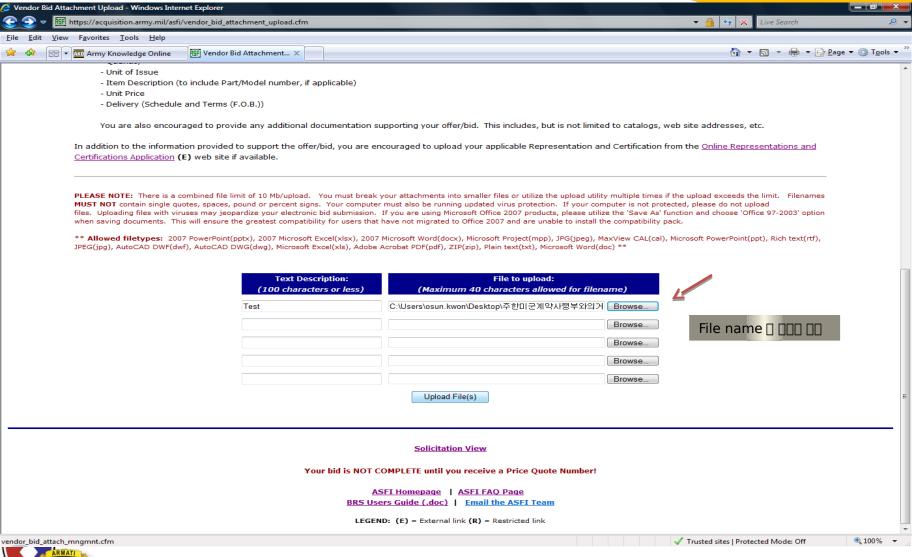






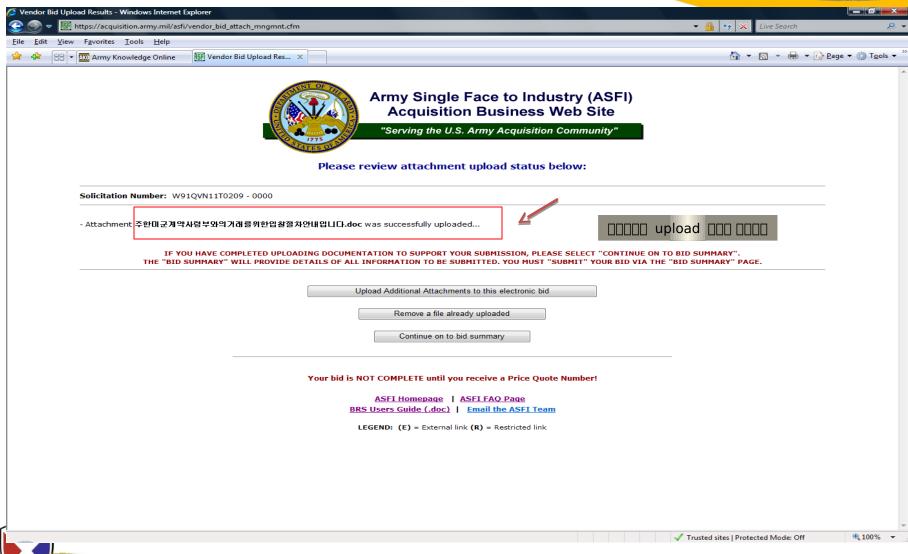






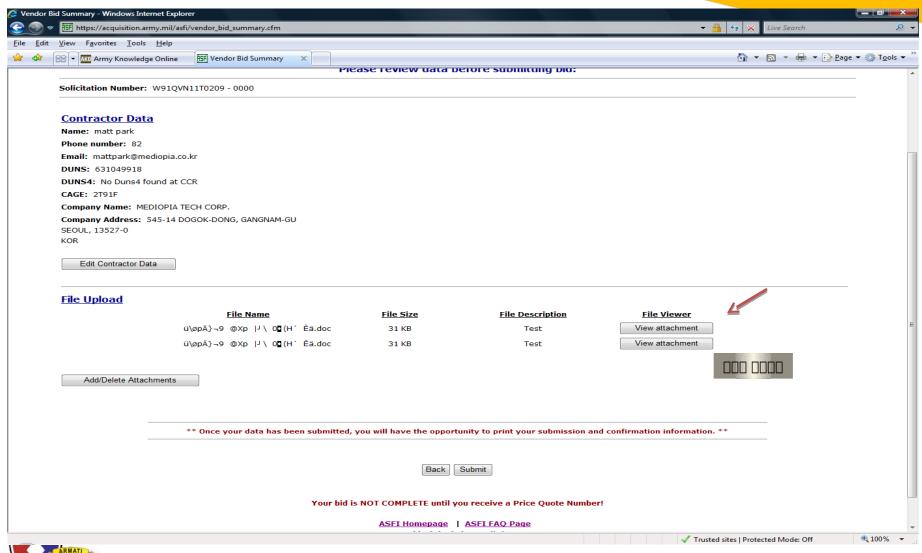






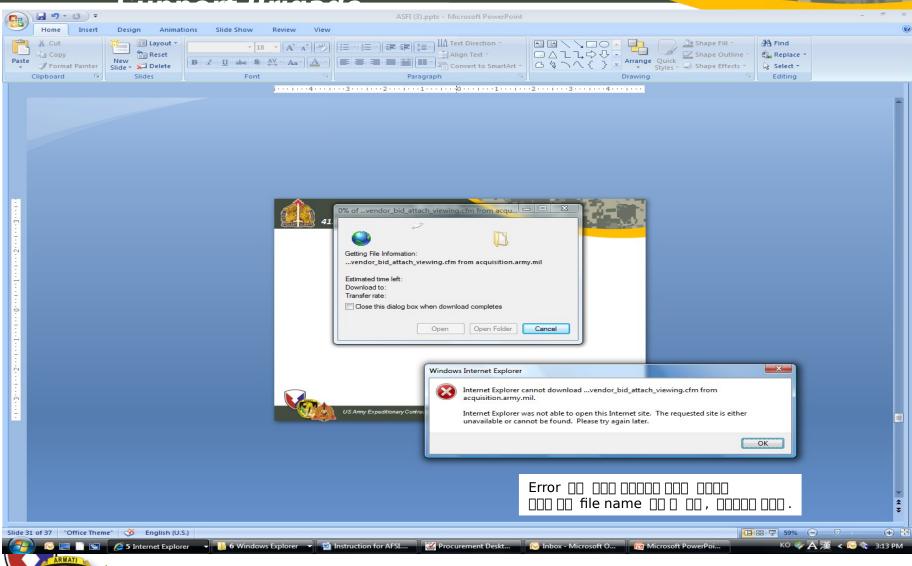






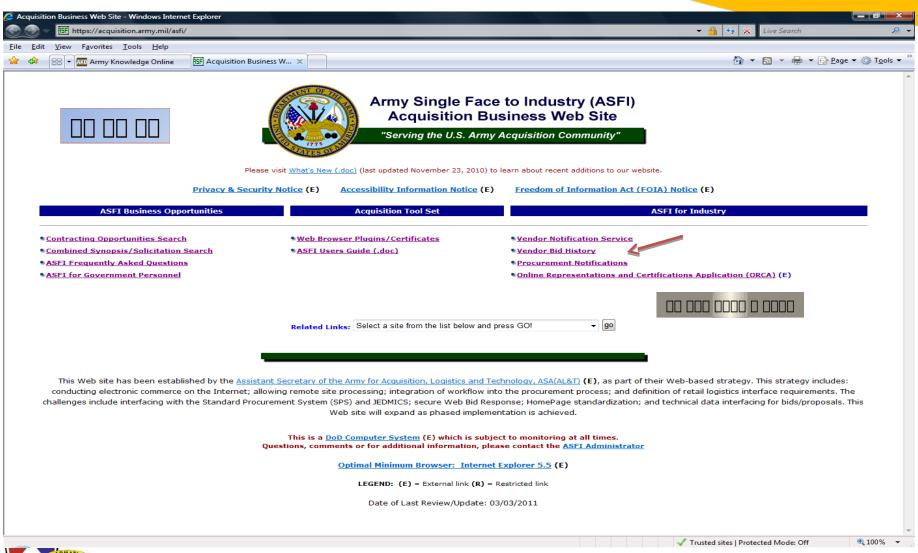






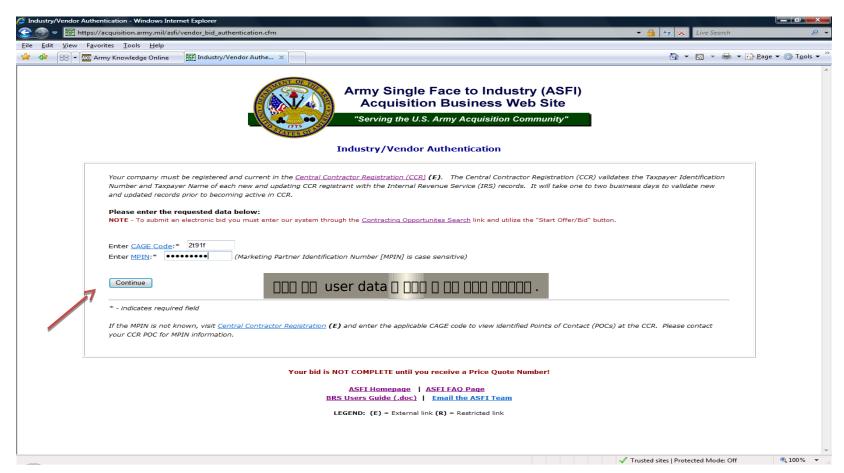






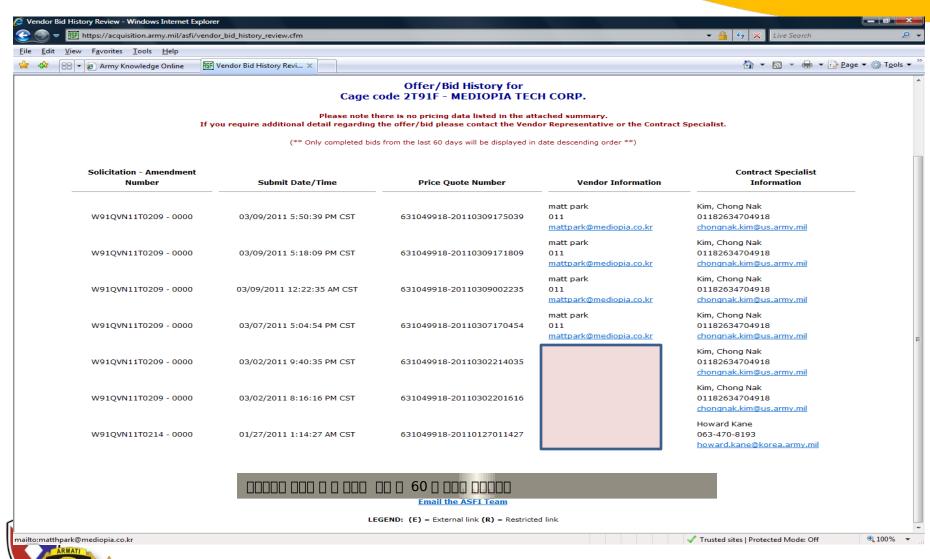






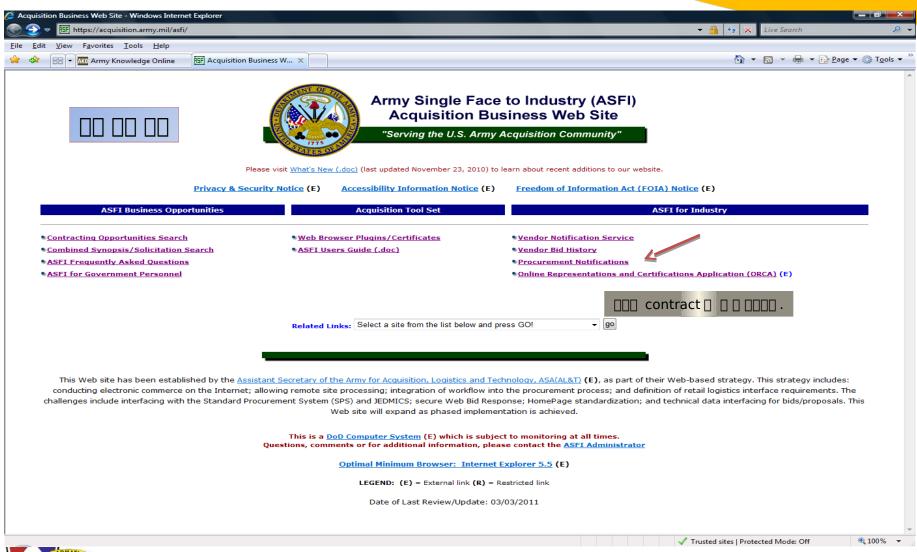






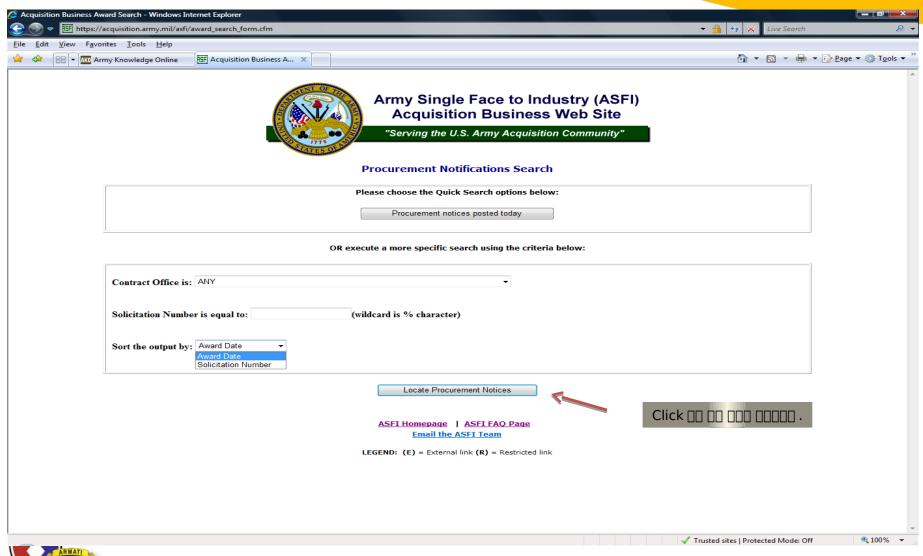






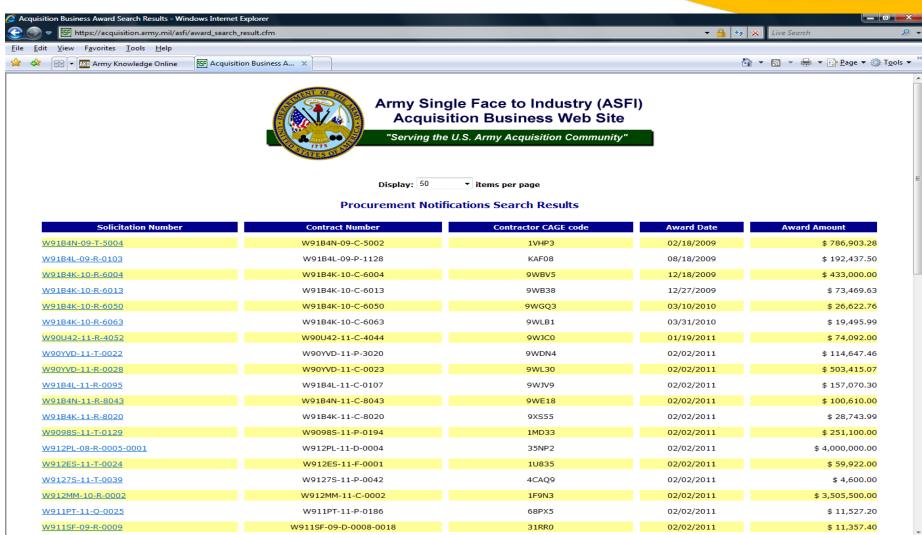










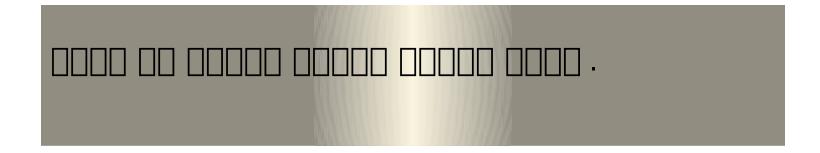


√ Trusted sites | Protected Mode: Off

**100%** 









# 411<sup>th</sup> Contracting Support Brigade



# **PRE-AWARD SURVEY**







# What is Pre-Award Survey (PAS)?

- It is a review process to assure the prospective vendor is sufficiently responsible to fulfill all terms of the contract.
- It is same as a creditor checks an applicant's credit history before approving a loan.





# Why Require PAS?

 Prior to the award of a contract, the US Government attempts to assure that prospective vendor have the capability to fulfill their part of the contract bargain.

 The US Government cannot tolerate late deliveries or defective materials, regardless of whether they are simple

or complex





# When the PAS Process Begins?

 The process begins with a buying activity's request for a survey and concludes with a procuring contracting officer's decision based on a recommendation by Quality Assurance Survey Team who conducts the PAS.







# **How the PAS Process Works?**

- The buying activity requests a PAS by completing SF Form1403. This form contains pertinent information about the contract being awarded.
- The form also tells the survey team areas of interest on requiring evaluation before the contract is awarded.





# What the Survey Team Looks For?

- A PAS can focus on virtually every aspect of your business operations from technical capability to financial stability, and from quality control to plant safety.
  - Technical Capability: Do your key management personnel have the knowledge and experience needed to generate the required product or service?





# What the Survey Team Looks For?

- Production Capability: Do you have or can you acquire the facilities, material, equipment, and personnel needed to complete the contract on time?
- Quality Control: Are you capable of complying contract's quality control requirement?
- Finance: Do you have access to enough money to acquire needed facilities, material, equipment, and personnel?





# What the Survey Team Looks For?

- Government Property Control: Are you capable of managing and controlling government property?
- Transportation: Can you comply with all the rules and regulations on the movement of government material or overweight, oversized, or hazardous cargo?
- Security: Do you and your employees have up-to-date and adequate clearance if required?





# What the Survey Team Looks For?

- Plant Safety: Can you comply with all federal and local safety requirements?
- Environmental: Can you comply with all federal and local environmental requirements?





# **Checklist to Prepare for the Survey**

- Before the survey team arrives, ask yourself these questions:
  - Can you actually demonstrate your company's technical capability?
  - Have you gathered pertinent financial documents such as a profit and loss summary balance sheet?
  - Is your company facility and equipment available and operable? If not, can you prove that the facility/equipment can be acquired in time to meet the contract requirements?

U.S. Army Contracting Command





## **Checklist to Prepare for the** Survey

- Does your company have documents on previous government or commercial contracts and orders that demonstrate a satisfactory record of quality product or services?
- Has your company hired enough properly skilled personnel? If not, can you hire them quickly?
- Does your company have an effective quality control system?

U.S. Army Contracting Command





# **Checklist to Prepare for the Survey**

- Do you understand all the requirements for technical data and publications?
- Do you have any other information or data the survey team would find useful?
- Have you made plans to escort the survey team trough your facility and technical experts available to answer questions from the team?





### **Summary**

 PAS is a review process to assure the prospective vendor is sufficiently responsible to fulfill all terms of the contract.

 The US Government cannot tolerate late deliveries or defective materials, regardless of whether they are simple or complex.





### **Summary**

 The PAS process is your opportunity to provide evidence that you can successfully fulfill the terms of the contract.

Use this time wisely!





# Questions?





# 411<sup>th</sup> Contracting Support Brigade



# Best Value: Jest-Price Technically Accenta

Lowest-Price Technically Acceptable & Tradeoff Process

## MR. B. JOSHUA PAK Chief, Customer Support Team





### Agenda

- Best Value
- Methods of Best Value
- Lowest Price Technically Acceptable
- Tradeoff
- Issues of Source Selection
- Unbalance Pricing
- Discussion with Offeror
- Benefit of Making Award without Discussion





#### **Best Value**

- What is it?
  - "Best value" means the expected outcome of an acquisition that, in the Government's estimation, provides the greatest overall benefit in response to the requirement (FAR 2.101)
  - Best value is the outcome of any acquisition that ensure we meet the customer's needs in the most effective, economical, and timely manner (AMC Pamphlet 715-3)
  - The most advantageous balance of price, quality, and performance achieved through competitive procurement methods in accordance with stated selection criteria.





#### Methods of Best Value

- Two Types of Source Selection
- Tradeoff (FAR 15.101-1)
- Lowest Price Technically Acceptable (FAR 15.101-2)





# Lowest-Price Technically Acceptable (LPTA)

- LPTA source selection process is appropriate when best value is expected to result from selection of the technically acceptable proposal with the lowest evaluated price.
- LPTA may be used:
  - Where Government would not realize any value from a proposal exceeding the Government's minimum technical or performance requirements.
  - Often for commercial or non-complex acquisition which is clearly defined and expected to be low risk.

U.S. Army Contracting Command





### LPTA process (continued)

- Solicitations shall specify that award will be made on the basis of the lowest evaluated price of proposals meeting or exceeding the acceptability standards for non-cost factors.
- Tradeoffs are not permitted.
- Proposals are evaluated for acceptability but not ranked using the non-cost/price factors.
- Exchanges may occur (FAR 15.306)





### LPTA process (continued)

- A key element the non-cost evaluation factors are all of equal importance. The failure of a proposal to meet any of the factors will preclude award to the offeror submitting the proposal.
- The offeror may be given an opportunity to cure the noncompliance thru oral or written discussion if award on initial proposals will not be made and the proposal would otherwise be in the competitive range.





#### Tradeoff Process

- A tradeoff process is appropriate when it may be in the best interest of the Government to consider award to other than the lowest priced offeror or other than the highest technically rated offeror.
- This process permits tradeoffs among cost or price and non-cost factors and allows the Government to accept other than the lowest priced proposal.





### Tradeoff Process (continued)

- When using the tradeoff process, the following apply:
  - All evaluation factors and significant sub factors that will affect contract award and their relative importance shall be clearly stated in the solicitations; and
  - The solicitation shall state whether all evaluation factors other than cost or price when combined are significantly more important than cost or price.





#### **Issues of Source Selection**

- Use more LPTA than Tradeoff
  - Requirement dictates on the source selection
  - Low risk, commercial, non-complex requirement must use LPTA
- Vendor's Perspective
  - LPTA creates burden on competitors
- Unbalanced Pricing [FAR 15.404-1(g)]
  - Increase performance risk
  - Exists when despite an acceptable total evaluated price, the price of one or more contract line items is significantly over or understated





### **Unbalanced Pricing**

 An offer may be <u>rejected</u> if the contracting officer determines that the lack of balance poses an unacceptable risk to the Government [FAR 15.404-1(g)(3)]





#### Discussion with Offeror

 Under the Competition in Contracting Act of 1984 (CICA), award without negotiations could be made only when it could be clearly demonstrated that such award would result in the lowest overall cost to the Government. However, statutory changes in the 1990s deleted this requirement and gave agencies full discretion to use this process whenever they found it desirable.





# Benefits of making award without negotiations

- Significant reduction of acquisition lead time.
- Permitting award on technical superiority when discussions are not needed
- Lessening the chances of wrongful disclosure of source selection information
- Reduction of the Government overall acquisition costs by reducing the amount a contractor is spending on bid and proposal costs.





# Benefits of making award without negotiations (continued)

- An additional benefit is the avoidance of final proposal revision that include arbitrary price reductions.
- Considering these benefits, agencies have decided to award competitively negotiated procurements without negotiations as a way to streamline their process.





# Questions?





# 411<sup>th</sup> Contracting Support Brigade





## MS. JENNY SUH CUSTOMER SUPPORT TEAM





#### **SECTIONS OF THE SOLICITATION**

- Solicitation/Contract Form
- Price Schedule (Supplies or Services and Prices)
- Description/Specifications
- Packaging and Marking
- Inspection and Acceptance
- Deliveries or Performance
- Contract Administration Data





### FIRST PAGE OF THE SOLICITATION

SOLICITATIO	N/CONTRACT/				ITEMS	1. REC	QUISITIC	ON NUMBER			PAGE	1 OF	43
2. CONTRACT NO.	JR TO COMPLET	3. AWARD/EFFEC		ORDER N	UMBER	l .			ION NUMBER			ATION ISS	UE DATE
7. FOR SOLICITATION		a. NAME							09-T-0208		19-J an-		/LOCAL TIME
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15. DELIVER TO		CODE		16.	ADMINISTE	REDE	3Y			CO	DE		
SE	E SCHEDUL	E											
17a.CONTRACTOR	/OFFEROR	CO	DE	188	a. PAYMENT	WILL	BE MA	ADE BY		CC	DDE		
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19. ITEM NO.		20. SCHEDULE	OF SUPPLIES,	SERVI	CES		21.	QUANTITY	22. UNIT	23. UNIT P	RICE	24. AMC	DUNT
		SI	EE SCHEDU	LE									
25. ACCOUNTING	AND APPROPRIATI	ON DATA							26. TOTAL	AWARD AMO	OUNT (For	Govt. U	se Only)
27a. SOLICITA	TION INCORPORAT	ES BY REFERE	NCE FAR 52.21	2-1. 52.2	212-4. FAR 5	2.212-	3. 52.2	12-5 ARE AT	TACHED. A	DDENDA 🔲	ARE 7	ARE NOT	ATTACHED
27b. CONTRAC	T/PURCHASE ORE	ER INCORPOR	ATES BY REFE	RENCE	FAR 52.212-	4. FAF	52.21	2-5 IS ATTA	CHED. AL	DDENDA 🔲	ARE .	ARE NOT	ATTACHED
28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN  TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVE  SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONS  SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.				DELIVE	VER ALL ITEMS OFFER DATED . YOUR OFFER ON SOLICITATION								
30a. SIGNATURE	OF OFFEROR/CON	TRACTOR			31a.UNITED	STAT	ES OF	AMERICA (	SIGNATURE OF CO	NTRACTING C	OFFICER)	31c. DAT	E SIGNED
30b. NAME AND T	TTLE OF SIGNER	3	30c. DATE SIG	NED	31b. NAME	OF CO	NTRACT	ING OFFICER	R (TYPE 0	OR PRINT)			
(TYPE OR PRINT)													
					TEL:				EMAIL:				
AUTHORIZED FOR	R LOCAL REPROD	UCTION			-					STANDARD	FORM 1	449 (B	EV 3/2005)

Prescribed by GSA FAR (48 CFR) 53.212





# PRICE SCHEDULE (CONTRACT LINE ITEM)

### **Example**

ITEM	<b>SUPPLIES/SERVI</b>	QUANTITY	UNIT	UNIT PRICE	AMOUNT
NO	CES				
0001		26	Each		

Provide \_\_\_\_\_ Support Services

**FFP** 

For USFK in accordance with Performance Work Statement (PWS). The Period of Performance: 1 February 2009 or the date of award, whichever is later thru 31 January 2010.

**Unit of Issue: Each = Bi-Week** 

**FOB: Destination** 





# PRICE SCHEDULE (CONTRACT LINE ITEM)

**Example** 

ITEM NO SUPPLIES/SERVICE QUANTITY UNIT UNIT PRICE AMOUNT

0001 26 Each

**Desktop Computer** 

**FFP** 

**BRAND NAME OR EQUAL** 

Make & Model: XYZ, Model 123

**Salient Characteristics:** 

AGM based on 32-bit

Processor 530 with VT

Memory Upgrade to 4 GB (2 DIMMs)

Graphics Media Accelerator HD,

500 GB 7,200 RPM 3.5" Hard Drive

Smart Card Reader USB Keyboard

USB 2-Button Entry Mouse with Scroll, Black

8X Slim line DVD+/-RW, Cyber ink Power DVD,

Internal Business Audio Speaker

**FOB: Destination** 





### **EXAMPLES OF CLAUSES**

#### http://farsite.hill.af.mil/ and https://www.acquisition.gov/far/

52.204-6	Data Universal Numbering System (DUNS) Number	APR 2008
52.204-9	Personal Identity Verification of Contractor Personnel	SEP 2007
52.212-3	$Offeror\ Representations\ and\ CertificationCommercial\ Items$	JUN 2008
52.212-4	Contract Terms and ConditionsCommercial Items	OCT 2008
52.232-18	Availability Of Funds	APR 1984
52.233-4	Applicable Law for Breach of Contract Claim	OCT 2004
52.245-2	Government Property Installation Operation Services	JUN 2007
252.201-7000	Contracting Officer's Representative	DEC 1991
252.225-7040	Contractor Personnel Authorized to Accompany Armed Forces Deployed Outside the	MAR 2008
252.225-7041	Correspondence in English	JUN 1997
252.225-7043	Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States	MAR 2006
252.232-7003	Electronic Submission of Payment Requests and Receiving Reports	MAR 2008
252.233-7001	Choice of Law (Overseas)	JUN 1997
252.243-7001	Pricing Of Contract Modifications	DEC 1991
252.246-7000	Material Inspection And Receiving Report	MAR 2008





## INSTRUCTIONS TO OFFEROR(S)

### FAR 52.212-1 or Section L<sub>(S)</sub>

#### 1. SUBMISSION REQUIREMENTS

- a) Offerors are required to submit the following information with Price, Past Performance, and Technical Proposal through Army Single Face to Industry (ASFI) by going into <a href="https://acquisition.army.mil/asfi/">https://acquisition.army.mil/asfi/</a> by searching solicitation number W91QVN-11-R-XXXX or by hand carried to reception desk, building #1130, Cp Coiner, Yongsan Garrison by 1300 hours on the closing date and time of the RFP. Even though it's hand carried, offeror(s) shall submit it's price proposal electronically through the ASFI. Following documents shall be submitted with the proposals:
  - i) Signed first page of the solicitation, filled out local clause 5152.204-4032, local clause 5152.209-4009, FAR 52.212-3 Alt I,

local clause 5152.232-4022 and signed amendments (if any amendment is issued).

b) The technical proposal shall include the following:

Factor a. Technical Capability:

Subfactor 1 – Prior Experience: Offeror shall provide documentation showing it has at least 2 years of experience providing \_\_\_\_ support within 5 years. (See sub-paragraph 1.6 of PWS)

Subfactor 1 – Personnel Qualification: Offeror shall provide a copy of it's personnel resume that shows he or she has 2 years of experience in maintenance. (See sub-paragraph 7.1 of PWS)

c) Past Performance Information: Offeror shall provide it's past performance information on contracts it has held within 5 years which are of similar scope, magnitude, and complexity to that which is detailed in the solicitation. The Government reserves the right to contact any Government/Commercial source to provide past performance information and it can also be retrieved from Past Performance Information Retrieval System





# INSTRUCTIONS TO OFFEROR(S) FAR 52.212-1 or Section L (Continued)

- d) Price Proposal: The proposed price shall be adequate, be reasonable, be complete.
- e) All questions should be emailed to <u>john.doe@korea.army.mil</u> within 7 days after the solicitation is issued.
- f) Late Proposal Notwithstanding any other provisions of this solicitation, proposals received by a contracting office after the exact date and time specified herein for receipt of proposals are late and shall not be considered for award.
- g) Pre-award Survey: A pre-award survey may be conducted on all firms to include joint venture partners and subcontractors indicating firm commitments to this acquisition, submitting proposals. The pre-award survey is to determine the prospective contractor's responsibility in accordance with FAR par 9.104-1. Information may be requested as required by the Contracting officer and the information shall be submitted within three working days of the request.
- h) Site Orientation: Offerors are urged and expected to inspect the site where services are to be performed and to satisfy themselves regarding all general and local conditions that may affect the price of contract performance, to the extent that the information is reasonably obtainable. In no event shall failure to inspect the site constitute grounds for a claim after contract award. The site orientation schedule is as follows:

  Time and Place: TBD





### EVALUATION - COMMERCIAL ITEMS/ BASIS OF AWARD (FAR 52.212-2 or Section M)

52.212-2 EVALUATION--COMMERCIAL ITEMS

(a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. The following factors shall be used to evaluate offers:

Source Selection Process: Lowest Price Technically Acceptable (LPTA)

- 1. Non-Price
- a. Technical Capability
  - (1) Prior Experience
  - (2) Personnel Qualification
- **b. Past Performance**: Past performance evaluation rating are defined as Acceptable, Unacceptable, and Neutral with definition shown below:
  - (i) ACCEPTABLE (A): A rating of Acceptable represents offeror demonstrating adequate and relevant past performance to the proposal and consistent satisfactory or better performance rating on the offeror's timeliness, quality of product or services, and customer service quality for the past five (5) years.





### EVALUATION - COMMERCIAL ITEMS/ BASIS OF AWARD (FAR 52.212-2 or Section M) Continued

- (ii) UNACCEPTABLE (U): A rating of Unacceptable represents unsatisfactory rating due to not meeting acceptability criteria defined for "acceptable".
- (iii) NEUTRAL (N): A rating of neutral will be given to an offeror without a record of relevant past performance or in the event information on past performance is not available; the offeror may not be evaluated favorably or unfavorably on past performance.

#### 2. Price

- (b) Options. The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).
- (c) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

nd of provision)





# Questions?





### 411<sup>th</sup> Contracting Support Brigade



### **CONTRACT ADMINISTRATION**

## MS. SUN HUI OK Contract Specialist





### Agenda

- Functions
- Post-award Conference
- KO vs. COR
- Performance Evaluation
- Exercise Option
- Claim, Dispute, Appeal



#### 411<sup>th</sup> Contracting



### Administrative Functions (1 of 2)

- Review New Contracts
- Conduct Post-Award Conference
- Appoint & Train
  - Contracting Officer's Representative (COR)
  - Ordering Officer
- Conduct Site Visits
- Negotiate and Issue Modifications





## Administrative Functions (2 of 2)

- Exercise Contract Options
- Resolve Claims, Disputes and Appeals
- Terminate Contracts
- Contract Closeouts





## Post-award Conference (1 of 2)

- Roles and responsibilities of personnel KO (ACO), Contract Specialist, QAS, and COR
- Scope of Work (PWS or SOW)/ Drawings
- Routing of Correspondence
- Vehicle Registration
- Government Furnished Property



#### 411<sup>th</sup> Contracting



## Post-award Conference (2 of 2)

- Inspection
- Safety
- Stop Work
- Contract Modification
- Contract Termination
  - Termination for Convenience of the Government (T4C)
  - Termination for Default (T4D)
  - Termination for Cause (for commercial item)





## Contracting Officer (KO) vs. COR

- Only the KO is authorized to change the contract
- COR can't change:
  - Price
  - Quantity
  - Quality
  - Delivery





### Contractor's Performance Evaluation

- Inspection by COR or Quality Assurance Specialist
- Contractor's performance ratings:
  - USFK Form 173-R-E (monthly) for Service Contract
  - DD Form 2626 (monthly or periodically) for Construction Contract
- Letter of concern:
  - Cure Notice
  - Show Cause
- Contractor Performance Assessment Report System (CPARS)





### **Conduct Site Visit**

- Coordinate with Quality Branch
- Inform COR of visit
- COR may/may not inform the contractor
- Provide feedback to COR and Contractor
- File results of site visit in contract file





## **Exercise Contract Options**

- Verify option period/clauses
- Request recommendation from Requiring Activity
- Evaluate request and conduct market survey
- Issue preliminary written notice
- Prepare D&F and MFR for price analysis
- Issue/Execute/Release/Distribute
- Last Option: Notify COR to prepare PR&C if followon is required



#### 411<sup>th</sup> Contracting



## Resolve Claims, Disputes and Appeals

- Contractor submits claim
- Review of claim by KO and Legal
- Prepare/Issue KO's final decision
- Contractor accepts final decision, IF NOT:
  - Contractor files appeal
  - KO prepares Rules 4 File





# Questions?





## 411<sup>th</sup> Contracting Support Brigade



## **POST PASS & DECAL**







#### **AGENDA**

- Procedures ( □□□□ )
- Required Documents ( □□□ □□□ □□ )
- Force Protection Condition(FPCON) ( □□□□□ )
- Escort Privileges ( □□□□ □□ )
- Type of Post Pass & Decal ( □□□ □□□□□ □□ )
- Sample Documents ( □□□□ )





### **PROCEDURES**

Command

- Reference: USFK Regulation 190-7
- After Contract Award before one or two (for USFK Wide PASS) & DECAL) months prior to Contract Start Date
- Contractor submit the required documents to the pertinent Contracting Officer Representative (COR) from the Requiring Activity (RA)
- COR gets an approval from the Sponsor in RA
- COR submits the complete document to Law & Order Office or USFK Provost Marshal Office
- Background Check based on FPCON Access Level
- Contractor receives Post Pass or Decal at PMO Office, Camp Kim
- After completion of contract and receipt the final payment, return the Post Pass & Decal to PMO Office, Camp Kim





### REQUIRED DOCUMENTS

- Post Pass
  - Initial/Update
    - USFK Form 82-E
    - Copy of Korean ID Card
    - Copy of Current ID Card (only for to Update)
  - Renewal (Request extension with nothing change information)
    - Renewal Memorandum
    - Copy of Korean ID Card
    - Copy of Current ID Card





### REQUIRED DOCUMENTS (Con't)

- Decal (Vehicle Installation Access)
  - Initial/Update
    - Memorandum
    - USFK Form 195EK-E
      - Valid Vehicle Registration
      - Valid Vehicle Insurance
      - Copy of Current ID Card
    - Driver's License
  - Renewal (Request extension with nothing change information)
    - Renewal Memorandum
    - Copy of Korean ID Card
    - Copy of Current ID Card



#### 411<sup>th</sup> Contracting



## FORCE PROTECTION CONDITION (FPCON)

- Alpha (+)
- Bravo (+)
- Charlie (+)
- Delta (+)

Note: Required FPCON Level will be determined by Sponsor per Contract Requirements





#### **ESCORT PRIVILEGES**

- Vehicles
- Personnel

Note: Required Escort Privileges will be determined by

Sponsor per Contract Requirements







#### TYPE OF POST PASS

- Installation USFK Form 37EK (ex: Hanmam Village)
- Area USFK Form 37EK (ex: Area II)
- Multi-Area USFK Form 37EK (ex: Area I and II)
- Eighth Army-Wide USFK Form 37EK (ex: Area I IV)
- USFK-Wide USFK Form 37EK (ex: USFK Installation)

Note: Required number and type of Post Pass will



APPLICATION FOR INSTALLATION		(USFK I	FORM 37	-EK)	ATE				
(USFK REG 190-7)					15 March 2011				
(SEE PRIVACY ACT STATEMENT ON PAGE 2) SECTION I - TO BE FILLED OUT BY SPONSOR AND APPLICANT (TYPE OR PRINT)									
NAME (LAST, FIRST, MIDDLE)		. SEX   FEMALE   3. KID/SSN OR PASSPORT							
Kim, Tae Hui	_	MALE 123456-1234567							
4. DOB (YYYYMMDD) 5. HEIGHT 6. WEIG	HT 7. HAIR	8. EYES 9. GLA		9. GLASSES	10. POB (C	ITY/COUNTRY)			
12345678 6' 100 L	LB Black	В	rown	☐ YES 🖾 N	io Seoul,	Korea			
11. ADDRESS & PHONE NO.									
11.a. CURRENT ADDRESS & PHONE NO. (ST NO., CITY & PROVINCE) 11.b. PERMANENT ADDRESS & PHONE NO. (ST NO., CITY & PROVINCE)						Y & PROVINCE)			
Yongsan-Gu, Yongsan-Dong, 1 Ga			Yongsan-Gu, Yongsan-Dong, 1 Ga						
Seoul, Korea			Seoul, Korea						
12. ACCESS REQUIREMENTS (If USFK or EUSA-wide; Special processing required)									
12.a. ACCESS AREA 12.1	b. FPCON (A,B,C,D)	12.c. ES	SCORT PRI	/ILEGES	12.d. HOURS	12.e. DAYS			
Area I and II	В	Pers 3	Vehicle	YES ⊠ NO □	0730-1630	Mon-Fri			
12.f. PASS TYPE ☐ PERMANENT ☐ SHO	12.g. STATUS   INITIAL   RENEWAL   UPDATE								
13. SPONSOR INFORMATION									
13.a. SPONSOR (FULL NAME/RANK or GRADE) 13.b. SPONSOR SS		SN 13.c. SPONSOR ORG & PHONE NO.							
John Smith xxx-xxxx			DPW, Yongsan, Tel: 724-xxxx						
14. JUSTIFICATION FOR PASS OR VISIT (ATTACH COPY OF KID CARD OR PASSPORT AND PREVIOUS PASS)  (FPCON Level, escort authorization, Access Area, and days/hours of access must be addressed in justification)									

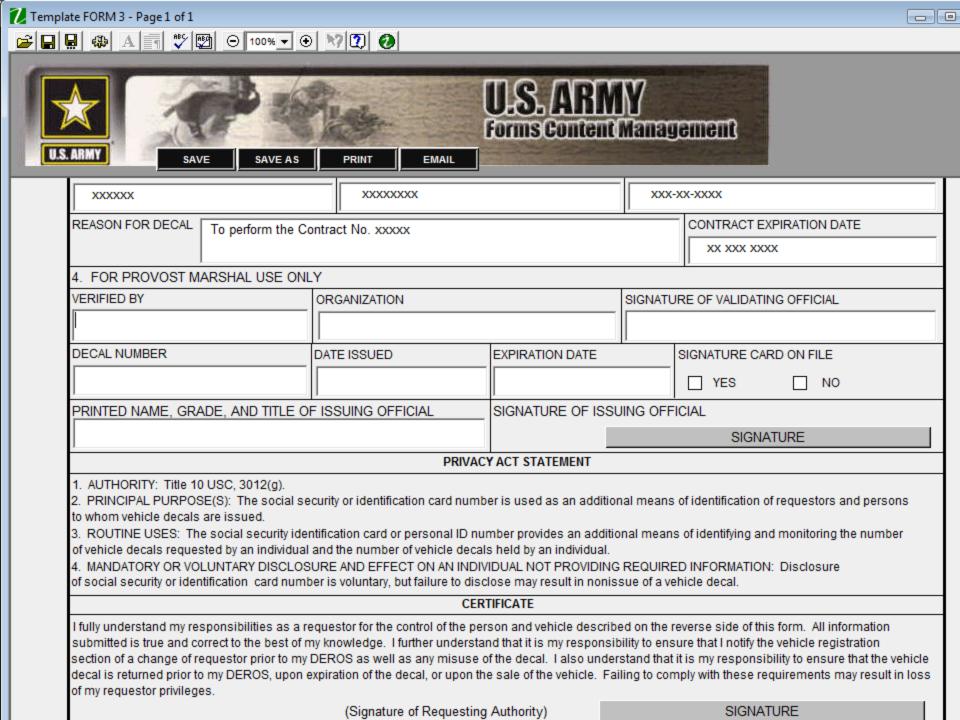


- 14. JUSTIFICATION FOR PASS OR VISIT (ATTACH COPY OF KID CARD OR PASSPORT AND PREVIOUS PASS) (FPCON Level, escort authorization, Access Area, and days/hours of access must be addressed in justification)
  - a. AREA I and II POST PASS: As a contractor, the above listed individual is responsible for visiting Area I and II in order to perform the contract requirement.
  - ESCORT PRIVILEGES: In order to perform her duties, Ms. Kim, Tae Hui must have escort privileges for Area I and II.
  - c. 8 HOUR ACCESS: Performance work hours are Monday through Friday, between 0730 1630 per day.
  - d. THREATCON LEVEL: Ms. Kim, Tae Hui is required to have THREATCON Level "B".

#### SPONSOR STATEMENT OF UNDERSTANDING

I fully understand my responsibilities as a sponsor for the control of the person identified at the top of this application. All information submitted is true and correct to the best of my knowledge. I further understand that it is my responsibility to ensure that I notify the Installation Pass & ID

APPLICATION FOR US For use of the form see U						L		DATE		
1. APPLICANT										
NAME (Last, First, Middle) RANK/TITLE					SSN/KID NUMBER		I	EMPLOYED BY		
Kim, Tae Hui Project Manager			123456-		23456-1234	456-1234567		Korea Company		
ADDRESS AND PHONE NUMBER				BUSINESS	BUSINESS ADDRESS AND PHONE NUMBER IN KOREA					
Yongsan-Gu, YongsanDong, 1-Ga, Seoul, Korea, Tel: xxx-xxxx				Kangna	Kangnam-Ku, Yoeksam-dong, Tel: xxx-xxxx					
2. VEHICLE INFORMATION NOTE:	: SEE BEI	LOW FOR	R DRIVERS	INFO	DRMATION R	EQU	JIREMENT			
NAME OF OWNER ADDRESS OF OWNER				MAKE/YE	MAKE/YEAR OF VEHICLE				MOTOR NUMBER	
Kim, Tae Hui	ongsan-Gเ	nn-Gu, YongsanDong, 1-Ga			Opiru	us/20	ıs/2011			XXXXXXXXXX
PLACE OF REGISTRATION	LICENSE F	ENSE PLATE NUMBER			BODY TYPE	BODY TYPE AND COLOR			DATE OF ROK SAFETY INSPECTION	
Seoul, Korea	XXXXXX	XXXXX				14 Mar 2011			r 2011	
NAME OF INSURANCE COMPANY POLICY NUMBE			MBER					EXPIRATION DATE		
XXXXXXXXX		xx					14 Mar 2012			
3. REQUESTOR								•		
NAME AND RANK ORGANIZATION & POSITION					ITION					
John Smith				DPW, Yongsan						
DEROS BLDG NO. AND PHONE NO.			).	SSN AND I			KID NO. OF REQUESTOR			
XXXXXXXX XXXXXXX				xxx-xx-xxxx						
REASON FOR DECAL To perform the Contract No. xxxxx						CONTRACT EXPIRATION DATE				
								XX XXX XXXX		
A FOR PROVOST MARSHALLISE ON	IV									







# Questions?





## 411<sup>th</sup> Contracting Support Brigade



## Wide Area Work Flow (WAWF)



# The 175<sup>th</sup> Financial Management Center

Presents:

Wide Area Workflow (WAWF) For Vendors

Presented by: Hong-Heyliger, Seo Youn

**Accounting Technician** 

## Wide Area Workflow (WAWF) Topics

- What is WAWF
  - Definition
  - FAR Clause
  - User Benefits
- How WAWF Works
  - Document Routing
  - Document Flow
  - Types of Receiving Repo
- WAWF Vendor Registration
- myInvoice





# WAWF Eliminates Paper from the Acquisition Process...

- WAWF stands for
   Wide Area Workflow
- An interactive webbased application that enables:
  - Vendors to electronically submit invoices and receiving reports,
  - Receiving Activities to inspect, accept, receive, and submit electronically. 171







## Why WAWF?

- It's the Law
  - Mandated by Public Law: Section 1008 of National Defense Authorization Act of FY 2001
- DFARS Clause 252.232-7003 (DFARS 232.7004)
  - Requires electronic invoicing/receiving reports
  - Requires electronic supporting documentation
- Army Mandated Korea-wide!
  - Effective 1 October 2010, 175th FMC will no longer accept paper copies of manual receiving reports



#### 411<sup>th</sup> Contracting



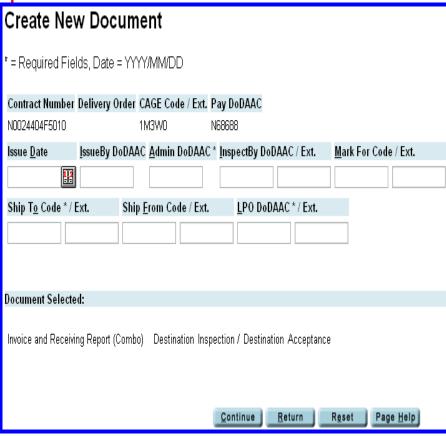
### **WAWF Benefits**

- Ability to submit documents electronically in compliance with public law
- Global Accessibility
- Eliminates Lost or Misplaced Documents
- Accuracy of Documents
- Secure & Auditable Transactions
- Enables Your Organization to take Maximum Benefit of Discounts
- Enables Timely & Accurate Payments
- Less re-keying and higher data accuracy

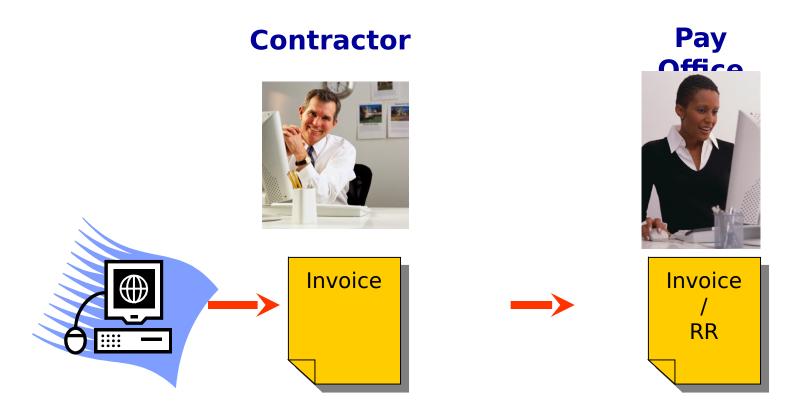
		R COMMERCIAL ITEI 2, 17, 23, 24, & 30		N NUMBER	PAGE 1 OF		
N0024404F5010			6. SOLICITATIO	ON NUMBER	d. SOLICITATION ISSUE DATE		
7. FOR SOLICITATION INFORMATION CALL:	a. NAME		b. TELEPHONE calls)	NUMBER (No collect	8. OFFER DUE DATE/ LOCAL TIME		
FLEET AND INDUSTRIAL 937 N HARBOR DRIVE San Diego, CA 92132-0008	NOOZ44	IALL BUSINESS BZONE SMALL SMESS	FOB DESTINATION UNLESS BLOCK IS MARKED SEE SCHEDULE	12. DISCOUNT TERMS  12. DISCOUNT TERMS  CONTRACT IS A RATED INDER DPAS (16 CFR 700)			
IS. DELIMER TO NADEP North Island	CODE	N65888 16. DMINIS		RFQ UB	CODE		
San Diego, CA 92135-7050 CHEROR CONTROLL OF THE CONTROL OF	1M3W0 FAC ITY	18a, PAYME	NT WILL BE MADE BY		DDE N68688		
			DFAS SAN DIEGO CA 9123-1848				

#### Know DODAAC???

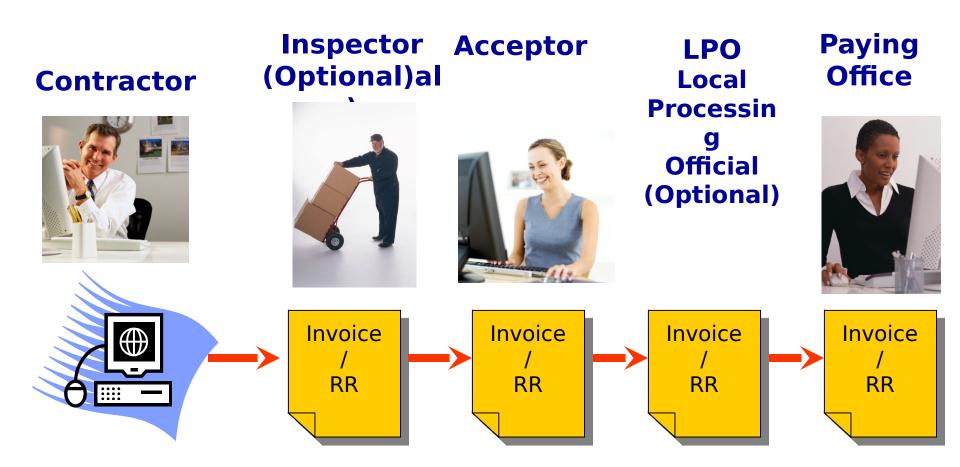
# ed Through WAWF s & Cage Codes



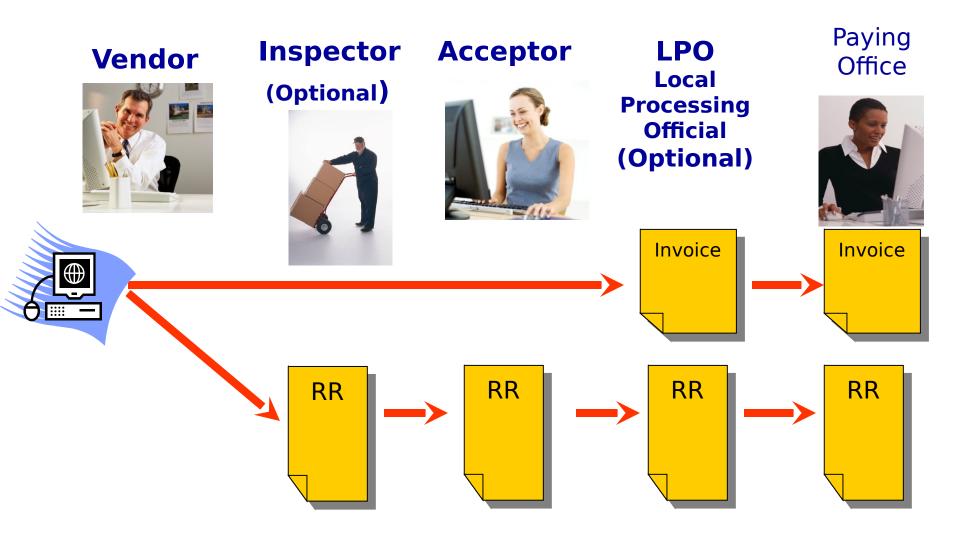
#### Stand-Alone Invoice Workflow



\*Invoice Travels directly to Paying Office



\*Invoice and Receiving Report Travel as One Document



\*\*Invoice and Receiving Report Travel as 2 Separate Documents

#### **WAWF References**

#### WAWF User Tools and Guide:

http://www.dfas.mil

- > Contract/Vendor Pay > Electronic Commerce > WAWF > Vendor Tools
- \* WAWF Vendor "Getting Started" Guide (Korean Translation Version 5.0) is available now in the website.
- WAWF User Training Website: <u>https://wawftraining.eb.mil</u>
- WAWF Production Website: <u>https://wawf.eb.mil</u>

#### **WAWF References**

Local WAWF Help Desk: 0800-1700
 Email: drowawf175fmc@korea.army.mil
 DSN 315-723-4591
 COMM 0505-723-4591

Stateside WAWF Help Desk for Vendor

Email: cscassig@csd.disa.mil

Phone: 1-801-605-7095

## WAWF Registration - Vendor

Presented by : Hong-Heyliger, Seo Youn Accounting Technician

## WAWF Registration for Vendors

## https://www.wawf.eb.mil

#### Wide Area Workflow 5.0

#### Notice

You are accessing a U.S. Government (USG) information system (IS) that is provided for USG authorized use only.

By using this IS (which includes any device attached to this IS), you consent to the following conditions:

The USG routinely intercepts and monitors communications occurring on this IS for purposes including, but not limited to, penetration testing, COMSEC monitoring, network operations and defense, personnel misconduct (PM), law enforcement (LE), and counterintelligence (CI) investigations.

At any time, the USG may inspect and seize data stored on this IS.

Communications using, or data stored on, this IS are not private, are subject to routine monitoring, interception, and search, and may be disclosed or used for any USG-authorized purpose.

This IS includes security measures (e.g., authentication and access controls) to protect USG interests--not for your personal benefit or privacy.

Notwithstanding the above, using this IS does not constitute consent to PM, LE or CI investigative searching or monitoring of the content of privileged communications, or work product, related to personal representation or services by attorneys, psychotherapists, or clergy, and their assistants. Such communications and work product are private and confidential. See User Agreement for details.

#### Notice

Wide Area Workflow is best experienced at a screen resolution greater than 1024 x 768.

#### WARNING!

Please DO NOT use the browser BACK BUTTON within the WAWF application.

The use of the browser's BACK BUTTON is not supported within the WAWF application when completing electronic forms.

Use of this button will cause the loss of data not yet saved to the server and will result in the application not performing as intended.

DO NOT use the backspace key in any uneditable field, as this will function as the back button.

Where they exist, use the PREVIOUS or CANCEL buttons to return to a previous page within the WAWF application.

The security accreditation level of this site is Unclassified FOUO and below.

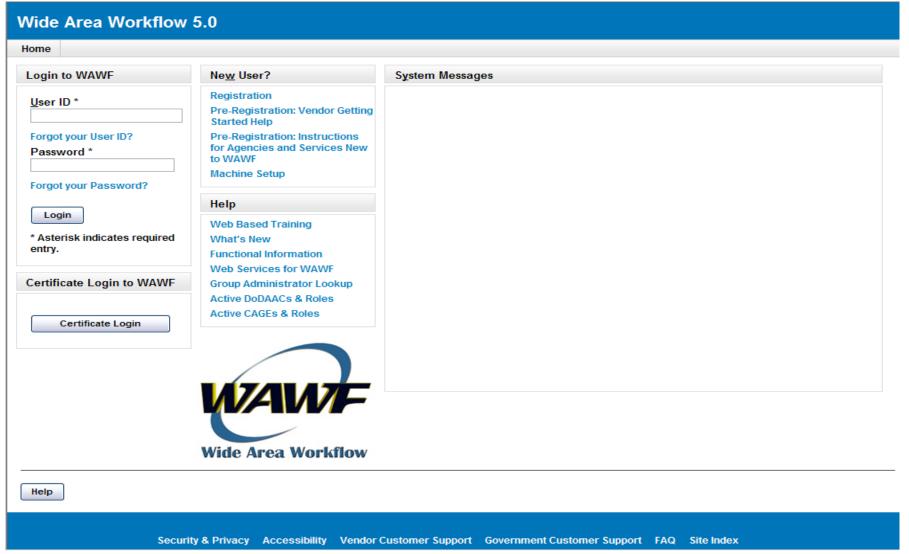
Do not process, store, or transmit information classified above the accreditation level of this system.



Accept



#### Click on "Registration" under New User?



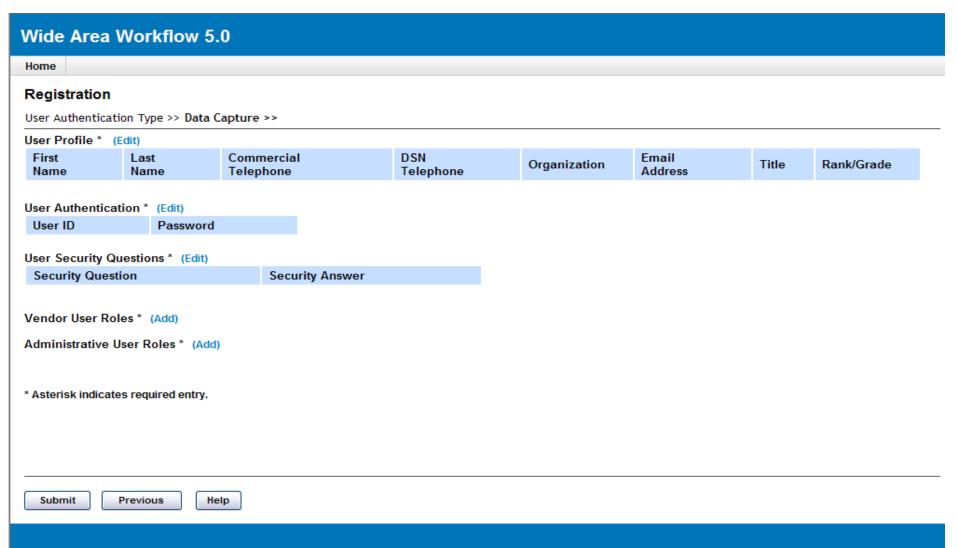
#### Select Radio Button for User ID/Password and Vendor

## Wide Area Workflow 5.0.1 Home Registration User Authentication Type >> How will you be accessing WAWF? \* User ID \ Password Common Access Card Software Certificate What Roles will you be registering for? \* Vendor Government \* Asterisk indicates required entry.

Next

Help

#### Click the Edit link next to User Profile



## Enter required data and click Save

Wide Area Workflow 5.0		
Home		
Registration - Edit User Profile		
First Name *	Last Name *	
Commercial Telephone *	DSN Telephone	
Organization *	Title *	
Email Address *	Confirm Email *	
Rank/Grade		
* Asterisk indicates required entry.		
Save Cancel Help		

Security & Privacy Accessibility Vendor Customer Support Government Customer Support FAQ Site Index

#### Enter User ID and Password by following the rules

Save

Cancel

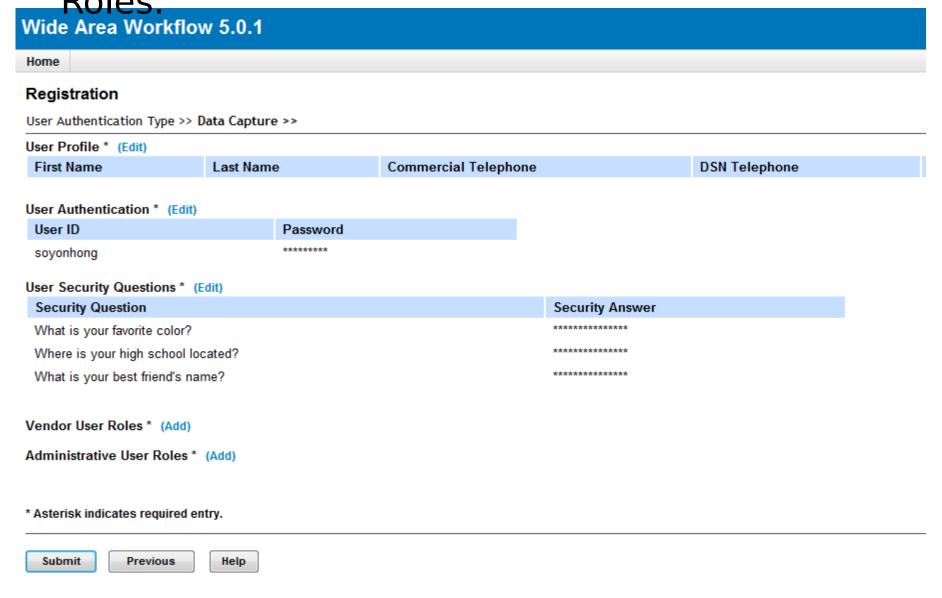
Help

#### Wide Area Workflow 5.0.1 Home Registration - Edit Authentication User ID Rules Minimum 8 characters May contain ONLY the following special characters ~!#\$^\_{} Must not already be registered in WAWF. User ID \* Password Rules Minimum 8 characters Cannot contain consecutive characters (abc or cba) Must contain at least 1 capital letter Cannot contain repeating characters (aa, bb, etc) Must contain at least 1 lower case letter Cannot contain the same character more than twice Must contain at least 1 number Entered passwords must be different from last 10 passwords used Must contain at least 1 special character Cannot be changed within 24 hours New Password \* New Password Confirmation \* \* Asterisk indicates required entry.

## **Enter Edit Security Questions**

Wide Area Workflow 5.0.1			
Home			
Registration - Edit Security Questions			
Answers might be obtained via googling, blogs, personal websites, genealogy charts,	online social networks (facebook, myspace, etc), high school website, picture sites (flick	kr, photobucket, shutterfly), online phone books, reverse phone look-ups, and other online resources.	
WAWF suggests picking unique security questions/answers which cannot be looked up via the aforementioned means.			
Security Question 1 *	Security Question 1 Answer *	Security Question 1 Answer Confirmation *	
Where is your high school located? ▼			
Security Question 2*	Security Question 2 Answer *	Security Question 2 Answer Confirmation *	
Where is your high school located? ▼			
Security Question 3 *	Security Question 3 Answer *	Security Question 3 Answer Confirmation *	
Where is your high school located?  ▼			
* Asterisk indicates required entry.			

Add Admin. Role first. Once activated, add Vendor Role or have other users enroll as Vendor Roles.



## Click Accept

Home

Registration - View & Accept Information System User Agreement

#### STANDARD MANDATORY NOTICE AND CONSENT PROVISION FOR ALL DOD INFORMATION SYSTEM USER AGREEMENTS

By signing [or clicking-through] this document, you acknowledge and consent that when you access Department of Defense (DoD) information systems:

You are accessing a U.S. Government (USG) information system (IS) (which includes any device attached to this information system) that is provided for U.S. Government authorized use only.

You consent to the following conditions:

The U.S. Government routinely intercepts and monitors communications on this information system for purposes including, but not limited to, penetration testing, communications security (COMSEC) monitoring, network operations and defense, personnel misconduct (PM), law enforcement (LE), and counter-intelligence (CI) investigations.

At any time, the U.S. Government may inspect and seize data stored on this information system.

Communications using, or data stored on, this information system are not private, are subject to routine monitoring, interception, and search, and may be disclosed or used for any U.S. Government-authorized purpose.

This information system includes security measures (e.g., authentication and access controls) to protect U.S. Government interests--not for your personal benefit or privacy.

Notwithstanding the above, using an information system does not constitute consent to personnel misconduct, law enforcement or counterintelligence investigative searching or monitoring of the content of privileged communications or data (including work product) that are related to personal representation or services by attorneys, psychotherapists, or clergy, and their assistants. Under these circumstances, such communications and work product are private and confidential, as further explained below:

Nothing in the User Agreement shall be interpreted to limit the user's consent to, or in any other way restrict or affect, any U. S. Government actions for purposes of network administration, operation, protection, or defense, or for communications security. This includes all communications and data on an information system, regardless of any applicable privilege or confidentiality.

The user consents to interception/capture and seizure of ALL communications and data for any authorized purpose (including personnel misconduct, law enforcement, or counterintelligence investigation). However, consent to interception/capture or seizure of communications and data is not consent to the use of privileged communications

Accept

Previous

Help

.

#### E-mail Notifications

- ✓ The Confirmation of registration screen displays.
- ✓ You will receive the first e-mail containing your User ID and your Role to notify the registration is submitted.
- ✓ In a few days, you will receive the second email to notify your account has been activated by customer service center for Admin. Role or by your administrator for Vendor Role.
- ✓ IF not, please contact Customer Service for support.



## 411<sup>th</sup> Contracting



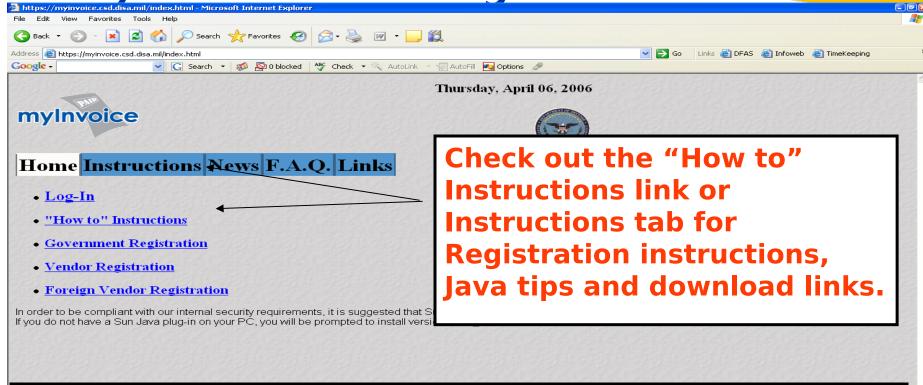
## myInvoice

- myInvoice is a web-based application developed for contractors to obtain the status of their invoices.
- Government users can also use mylnvoice to obtain the status of vendor's invoices.
- In addition to querying data on the screen, users can download mylnvoice information for further analysis.







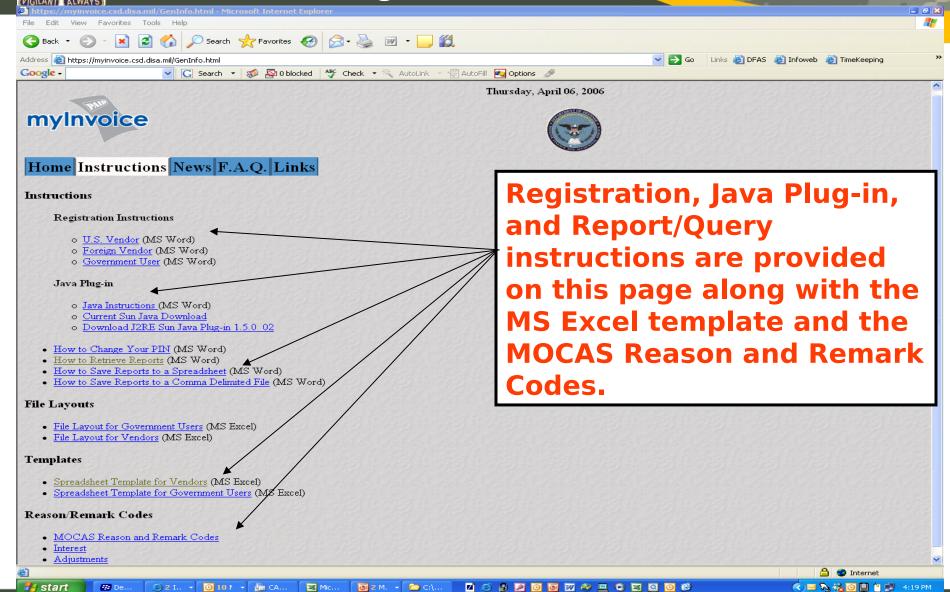


Go To: https://myinvoice.csd.disa.mil//index.html

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🔇 🏡 🤮 🛄 📋 🥦 4:13 PM





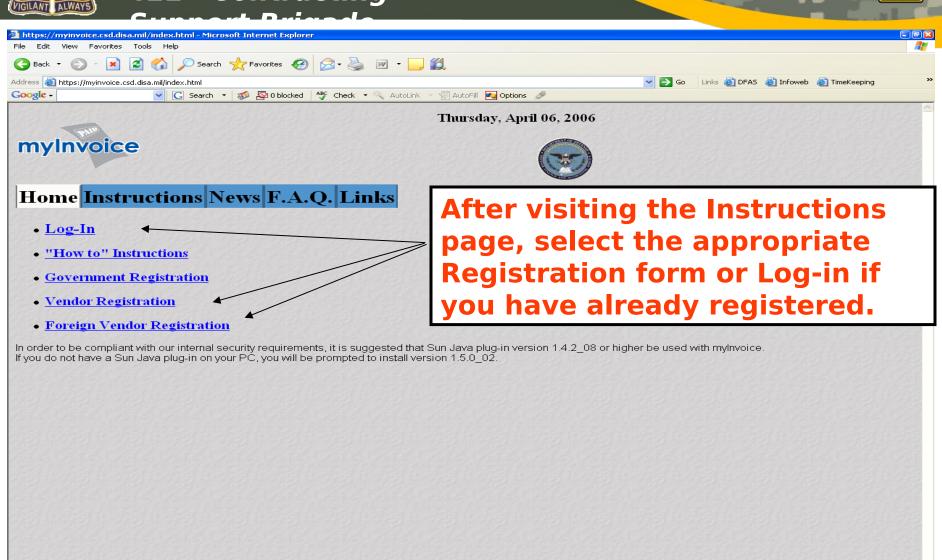
Command



#4 start

## 411<sup>ta</sup> Contracting





🔒 🍪 Internet

## **Questions?**





## 411<sup>th</sup> Contracting Support Brigade





MR. B. JOSHUA PAK Chief, Customer Support Team





## 3 Take-Aways

- Many fraud issues in Korea are a result of different cultural views and understandings of what it means for contract interactions to be "fair." There are two views of "fairness" – 1) "Fairness in Ground Rules" and "Fairness in Circumstance"
- When you enter into a U.S. Government Contract, you
   <u>practically</u> agree to "Fairness in Ground Rules"
- If you have ANY problem with contract performance, do not attempt to fashion a 'fair' solution under the circumstances without asking the KO first! Your KO-unapproved 'solution' may be viewed as a



### 411<sup>th</sup> Contracting



## Agenda

- Cultural Views of "Fairness"
- Understanding how U.S. Government Contracts incorporate the "Fairness in Ground Rules" View
- Fraud in U.S. Government Contracts
- Bribery
- Gifts





## Understanding Culture: What is 'Fairness'?

- What is a 'fair' legal system?
  - Karl "Max" Weber German Sociologist and Economist
  - Weber and the Sociology of Law
    - Cultural Norms and Civil Society define 'fairness' in all interactions between individuals including economic interactions
    - Contextualized Legal Judgments ('fairness' determined by the particular situations) vs. Applying Pre-Existing Legal Principles ('fairness' determined by applying the 'ground rules').
- Fairness in the American culture tends to be closer to applying pre-existing legal principles or "rules" – that is 'fair'...
- Fairness in Korean culture tends to be closer to contextualized legal judgments of all facts in that





# The U.S. Government Legal View of Contracts

- Fairness is achieved by setting common 'ground rules' up front, and then you apply those agreed-to rules to each situation, regardless of the actual result of the rules in that situation...
  - This view "flows down" to the American understanding of what is 'fair' and 'not fair' in U.S. government contracts!
- U.S. Government understanding of 'fairness' in government contracts is to set the 'ground rules,' and those rules are then applied - strictly - in all circumstances.
  - Let us call this view "Fairness in Ground Rules"
    - Appearance that the 'ground rules' are followed is important



#### U.S. Army Expeditionary Contracting Command



## Korean Perspective?

"So far as I know the Korean law does not punish or take into consideration such actions as bribery if the amount is reasonable."

I do not wish to deep the first that I provided such the locate a beauty in an interpret with your judgment that much as ent is so wrong as to deserves 5 years of destroys. First, I would like to request that you how much the forest commercial twins content of sixth in I. Serve, it is very common to have larged or winner to wrish may leaf feeling that had compared during the trace and also to make any fitness teams with the superiorization. In the case that I is not possible to have been been appreciated. The case that I is not possible to have been considered and the content of the second spring of the second spring the second of the second spring of the second spring is not small that it is hard to appear such actions as the is a realist; in

he for us I know the Kursan has done not purish or take into constitute thin total actions as brilley if the should be reasonable.

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I do not feel that it is right to access most bribery under buch protonnes. Finally, to upperfug at sixteeming. I am manipular a core of the cartific years to make at rightly included from the imparament of finite.

a person who meals provide bridgery for my one prefix and in judging chainer I have committed act cornerving 5 years of distrement.

Korean Contractor, Debarred 3 years for Bribery







## The Korean Legal View of Contracts

- Fairness is achieved by taking all facts into consideration and making a contextualized legal judgments as to what is the most 'fair' result under those specific circumstances...
  - This cultural understanding "flows down" to the Korean understanding of what is 'fair' and 'not fair' in contracts!
- The initial contract and its 'ground rules' may not necessarily result in what is most 'fair' in the specific situation – really the contract is more like 'guidance' that can be adjusted...
  - Let us call this "Fairness in Circumstance"





## Comparative Understanding of Contract 'Fairness'

- Important Point 1: One understanding of 'fairness' is not theoretically 'more correct' than the other...
- Let's visualize this discussion of contract 'fairness'...



#### Fairness in Ground Rules

#### Fairness in Circumstance

**Important Point 2:** When you enter into a U.S. Government Contract, you practically agree to "Fairness in Ground Rules"



#### 411<sup>th</sup> Contracting

## so what are some of the U.S. 'ground

## rules'? Contracting Officer is the 'referee':

- ONLY the KO has authority to change your contract rules...
- Is this 'fair'? Depends on your view of 'fairness'!
- U.S. government view need one person to know the rules and apply them fairly and equally in all situations...
- Competition is 'fair' if the 'ground rules' are followed -
  - Each contract competition is a self-contained, i.e., we will not consider the previous contract relationship, except as specifically allowed for in the solicitation (e.g. 'past performance').
  - Attempts to 'influence' the competition personnel are VERY BAD

     and could be viewed as a CRIMINAL act of BRIBERY(e.g., "wine
     and dine").

Tote how this differs from a 'contextual' view that 'wine and ine ''!! Army Exceditioners Contracting Games and Same Souther ting Games 2045 WOLASSISTED in





## Fraud in U.S. Government Contracts

- Fraud may attach when a Kr intentionally disregards
   ANY ground rule of the contract without getting
   KO approval!
  - Compare <u>'Breach of contract,'</u> in which the contractor tells the KO ahead of time that they cannot perform in accordance with the contract, BUT
  - Rises to <u>'Fraud,'</u> when the contractor doesn't tell the KO and fashions a 'fair solution' that violates the requirements of the contract, even though they know their action is not in conformance with the contract rules...
- Important Point 3: If you have ANY problem with contract performance, do not attempt to fashion a solution without asking the KO first! Your U.S. Army Expeditionary Contracting U.S. Army Contracting Commands UNCLASSIFIED





## Example: Is there Fraud here?

- FFP Contract for APS Back-ups, model A1, cost \$360/ea.
- After award, APS discontinues model A1.
- APS makes A2 at \$330, but since new, contractor spends an average of \$20/ea in 'time' to get them, and contractor pays \$20/ea for expedite delivery (total contractor cost: \$370 each)
- Contractor provides A2 APS Back-ups to the unit, and the delivered models are performing well.
- The unit is VERY HAPPY with the A2 APCs.
- The contractor invoices delivery of A2 APCs at a cost of \$370/ea.
- Is this fraud? What would the 'Fairness in Circumstance' say?
- 'Fairness in Ground Rules' View: This is fraud.
  - First the contractor promised A1 and delivered A2 product substitution.





#### Compart Princelo

## Bribery in U.S. Government Contracts

- <u>Bribery defined:</u> Direct or indirect provision of anything of value to government personnel with the <u>intent to</u> <u>influence any official government act</u> (including contract award or administration) of government contracts is bribery.
  - 18 U.S.C. 201
  - Not just money anything of value ("gifts," "promises," "sex," "wine and dine," etc.)
- Criminal act for proof "beyond a reasonable doubt," but can suspend for "adequate evidence" and debar for "preponderance"
- APPEARANCE MATTERS!!!!!!!
- This is a "ground rule" that you <u>must</u> understand, and to the straight to the heart of the U.S. "Fairness in U.S. Army Expeditionary Contracting U.S. Army Contracting Command UNCLASSIFIED



#### 411<sup>th</sup> Contracting



## Contractor Gifts to Government

- **Personnel** Gift = anything of value that exceeds \$20, or \$50/year...
- Government Personnel, Generally: Under JER, cannot accept single gifts worth more than \$20, and cannot accept more than \$50 in gifts per year from the same source.
- 411<sup>th</sup> CSB Personnel (including CORs):
   KOs/CSs/CORs and any other acquisition personnel cannot accept ANY gift, from ANY contractor.
   Period.
- Government Personnel Solicits? REPORT ASAP





## 3 Take-Aways

- Many fraud issues in Korea are a result of different cultural views and understandings of what it means for contract interactions to be "fair." There are two views of "fairness" – 1) "Fairness in Ground Rules" and "Fairness in Circumstance"
- When you enter into a U.S. Government Contract, you
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# Questions?





## 411<sup>th</sup> Contracting Support Brigade



## **QUESTIONS AND ANSWERS**

# MS. SUE ANN LAUGHREY DIRECTOR OF CONTRACTING